



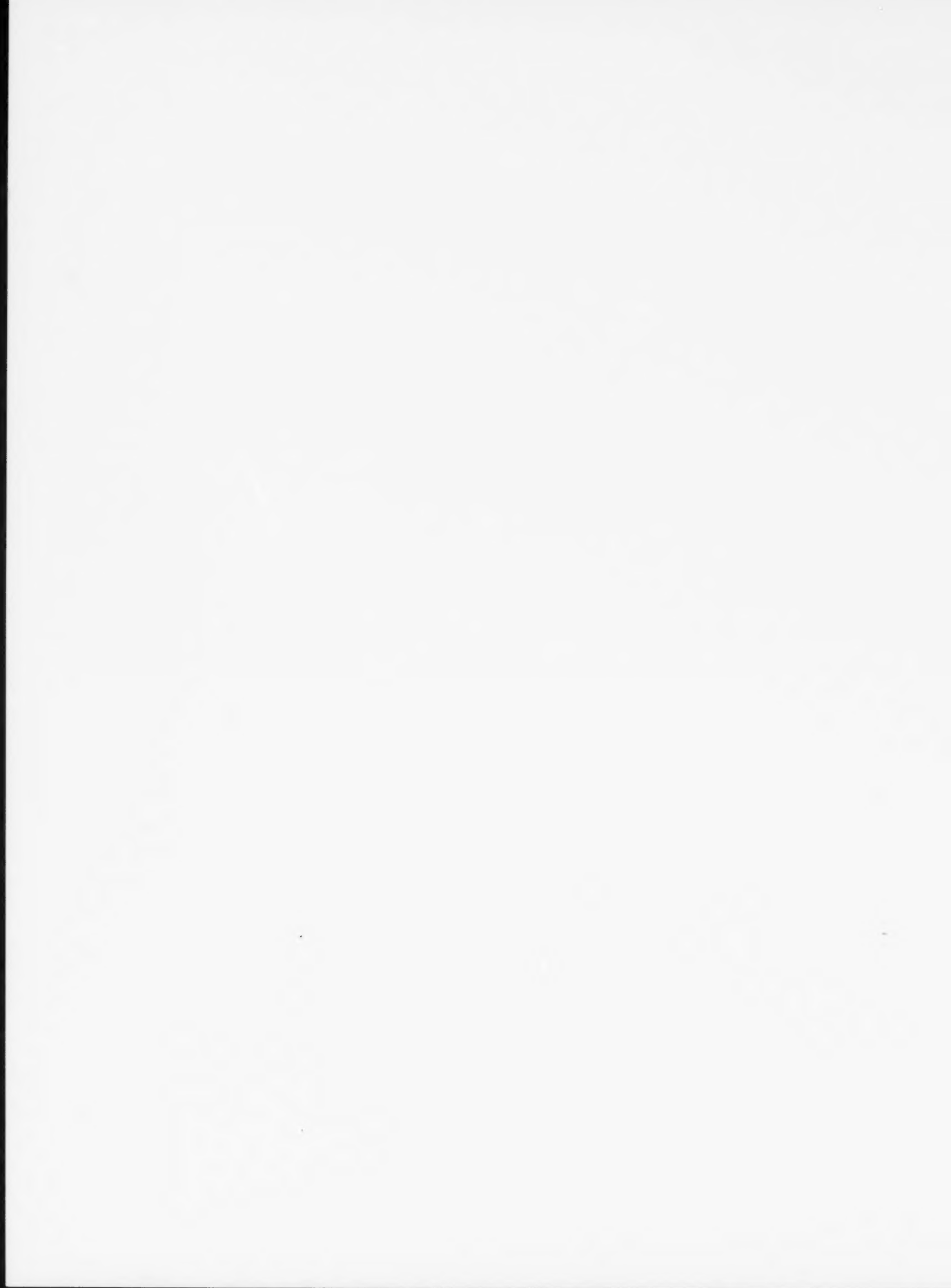
Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Annual Report | 2008-2009

Canada



ANNUAL REPORT

**FOR THE FISCAL YEAR ENDING
MARCH 31, 2009**

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Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

June 8, 2009

The Honourable Jim Flaherty, P.C., M.P.
Minister of Finance
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister:

I have the honour of transmitting to you, for tabling in the House of Commons, pursuant to section 41 of the *Canadian International Trade Tribunal Act*, the Tribunal's Annual Report for the fiscal year ending March 31, 2009.

Yours sincerely,

André F. Scott
Chairperson

333 Laurier Avenue West
Ottawa, Ontario K1A 0G7
Tél.: (613) 990-2452
Fax.: (613) 990-2439
www.citt-tcce.gc.ca

333, avenue Laurier ouest
Ottawa (Ontario) K1A 0G7
Tél. : (613) 990-2452
Télé. : (613) 990-2439
www.tcce-citt.gc.ca

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CHAPTER I

HIGHLIGHTS

Fiscal year 2008-2009 was very busy for the Tribunal, particularly given the number and complexity of dumping and subsidizing cases filed.

In this fiscal year, the Tribunal issued two preliminary determinations of injury caused by unfairly traded imports and three findings of injury. The final injury inquiry concerning aluminum extrusions was very complex. The issues, the exclusion requests and the number of participants were such that they required twice the resources that a usual anti-dumping case requires, placing a significant burden on the Tribunal to ensure the disposition of the case in accordance with the statutory deadline.

The Tribunal also issued one order following an interim review of an existing injury finding and three orders on the five-year anniversary of cases following expiry reviews. At the end of the fiscal year, one preliminary injury inquiry and two expiry reviews were in progress.

Sixty-three procurement complaints were filed with the Tribunal by the end of the fiscal year. The Tribunal rendered decisions in 72 cases, which included 1 remand and 17 cases that were in progress at the end of fiscal year 2007-2008. Two decisions were remanded to the Tribunal by the Federal Court of Appeal.

The Tribunal issued decisions and orders on 20 appeals from decisions of the President of the Canada Border Services Agency (CBSA) and the Minister of National Revenue made under the *Customs Act* and the *Excise Tax Act*.

During the fiscal year, the Tribunal issued three reports concerning three requests for tariff relief under a standing reference from the Minister of Finance. One request was withdrawn. At the end of the fiscal year, one case was in progress, and one request had not yet been initiated.

All the Tribunal's inquiries were completed on time, and decisions that were subject to statutory deadlines were issued on time. For appeals of customs and excise decisions, which are not subject to statutory deadlines, the Tribunal usually issues a decision and reasons within 120 days of the hearing.

As a significant player in Canada's trade remedies system, the Tribunal is often called upon to provide assistance to countries seeking to establish trade remedy systems or to countries negotiating to become members of the World Trade Organization (WTO). The Tribunal also participates in technical exchange meetings with other anti-dumping authorities, which is why it is called upon to make presentations to various international, legal and administrative bodies. In 2008-2009, the Tribunal hosted delegations from Australia, the People's Republic of China (China), Mexico and the European Union. In addition, the Tribunal provided training in China and continued its technical exchange with Australia.

Staff made presentations to the APEC meeting of the Government Procurement Experts' Group in Peru, the International Public Procurement Conference in Amsterdam, the students of the University of Ottawa, the Canada School of the Public Service, and staff of administrative tribunals, commissions, boards and agencies.

During the fiscal year, the term of Dr. James Ogilvy expired. The Tribunal would like to recognize the excellent contribution of Dr. Ogilvy to the work of the Tribunal.

The Tribunal is continuing to report selected statistics relating to decisions that it rendered in the fiscal year, such as those relating to directions and administrative rulings. Those statistics complement the caseload statistics table, as they present a more complete picture of the complexity of the different cases considered by the Tribunal.

Caseload

	Cases Brought Forward From Previous Fiscal Year	Cases Received in Fiscal Year	Total	Decisions/ Reports Issued	Decisions Not to Initiate	Cases Withdrawn/ Closed	Cases Outstanding (March 31, 2009)
SIMA activities							
Preliminary injury inquiries	-	3	3	2	-	-	1
Inquiries	-	3	3	3	-	-	-
Public interest inquiries	-	1	1	-	1	-	-
Interim reviews	-	1	1	1	-	-	-
Expiries	2	3	5	4	-	-	1
Expiry reviews	1	4	5	3	-	-	2
TOTAL	3	15	18	13	1	-	4
Procurement review activities							
Complaints	18	65 ¹	83	31 ²	41	1	10
Appeals							
Extensions of time							
<i>Customs Act</i>	-	2	2	2	-	-	-
<i>Excise Tax Act</i>	-	1	1	1	-	-	-
TOTAL	-	3	3	3	-	-	-
Appeals							
<i>Customs Act</i>	26	30	56	19	-	15	22
<i>Excise Tax Act</i>	44	3	47	1	-	2	44
<i>SIMA</i>	-	2	2	-	-	-	2
TOTAL	70	35	105	20	-	17	68
Standing textile reference							
Requests for tariff relief	3	3	6	3	-	1	2
¹ Includes two cases that were remanded to the Tribunal by the Federal Court of Appeal. ² Includes a Tribunal decision on a case that was remanded by the Federal Court of Appeal.							

Statistics Relating to Decisions Rendered in the Fiscal Year

	<i>SIMA</i> Activities	Procurement Review Activities	Appeals	Standing Textile Reference	TOTAL
Orders					
Disclosure order	12	-	-	-	12
Cost award order	N/A	25	N/A	N/A	25
Compensation order	N/A	2	N/A	N/A	2
Production order	5	-	-	-	5
Postponement of award order	N/A	16	N/A	N/A	16
Rescission of postponement of award order	N/A	14	N/A	N/A	14
Directions/administrative rulings					
Requests for information	153	-	-	4	157
Like goods/classes of goods	1	N/A	N/A	N/A	1
Motions	3	4	1	-	8
Subpoenas	7	-	-	-	7
Other statistics					
Public hearing days	20	-	22	-	42
File hearings ¹	5	67	4	4	80
Witnesses	68	-	39	-	107
Participants	149	102	71	9	331
Questionnaire respondents ²	274	-	-	9	283
Exhibits ³	2,962	1,301	887	230	5,380
Pages of official records ³	64,244	37,450	16,083	2,241	120,018

1. A file hearing occurs where the Tribunal renders a decision on the basis of written submissions, without holding a public hearing.
2. Includes those that replied that they do not import or produce the goods subject to the inquiry or expiry review, and unsolicited replies.
3. Estimated.

N/A = Not applicable

During the fiscal year, the term of Dr. James Ogilvy expired. The Tribunal would like to recognize the excellent contribution of Dr. Ogilvy to the work of the Tribunal.

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Inquiries	-	3	3	3	-	-	-
Public interest inquiries	-	1	1	-	1	-	-
Interim reviews	-	1	1	1	-	-	-
Expiries	2	3	5	4	-	-	1
Expiry reviews	1	4	5	3	-	-	2
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TOTAL	-	3	3	3	-	-	-
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<p>1. Includes two cases that were remanded to the Tribunal by the Federal Court of Appeal.</p> <p>2. Includes a Tribunal decision on a case that was remanded by the Federal Court of Appeal.</p>							

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Compensation order	N/A	2	N/A	N/A	2
Production order	5	-	-	-	5
Postponement of award order	N/A	16	N/A	N/A	16
Rescission of postponement of award order	N/A	14	N/A	N/A	14
Directions/administrative rulings					
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Like goods/classes of goods	1	N/A	N/A	N/A	1
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3. Estimated.

N/A = Not applicable



CHAPTER II

MANDATE, ORGANIZATION AND ACTIVITIES

Introduction

The Tribunal is an administrative tribunal operating within Canada's trade remedies system. It is an independent quasi-judicial body that carries out its statutory responsibilities in an autonomous and impartial manner and reports to Parliament through the Minister of Finance. Its central activity is the fair, timely and transparent disposition of all international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.

The main legislation governing the work of the Tribunal is the *Canadian International Trade Tribunal Act (CITT Act)*, the *Special Import Measures Act (SIMA)*, the *Customs Act*, the *Excise Tax Act*, the *Canadian International Trade Tribunal Regulations*, the *Canadian International Trade Tribunal Procurement Inquiry Regulations* and the *Canadian International Trade Tribunal Rules (Rules)*.

Mandate

The Tribunal's mandate is to:

- inquire into whether dumped or subsidized imports have caused, or are threatening to cause, injury to a domestic industry;
- inquire into complaints by potential suppliers concerning federal government procurement that is covered by the *North American Free Trade Agreement (NAFTA)*, the *Agreement on Internal Trade (AIT)*, the *Agreement on Government Procurement (AGP)* and the *Canada-Chile Free Trade Agreement (CCFTA)*;
- hear appeals from decisions of the CBSA made under the *Customs Act* and *SIMA* or of the Minister of National Revenue under the *Excise Tax Act*;
- under a standing reference from the Minister of Finance, investigate requests from Canadian producers for tariff relief on imported textile inputs used in their manufacturing operations and to make recommendations to the Minister of Finance on the relative benefits to Canada of the requests; and
- conduct safeguard inquiries under references from the Governor in Council or further to complaints by domestic producers that increased imports from all sources are causing, or threatening to cause, serious injury to domestic producers;
- conduct inquiries into complaints of market disruption or trade diversion with respect to increased imports from China;
- inquire into and provide advice on such economic, trade and commercial issues as are referred to the Tribunal by the Governor in Council;
- inquire into and report on such tariff-related matters as are referred to the Tribunal by the Minister of Finance.

Governing Legislation

Section	Authority
CITT Act	
18	Inquiries on economic, trade or commercial interests of Canada by reference from the Governor in Council
19	Inquiries into tariff-related matters by reference from the Minister of Finance
19.01	Safeguard inquiries concerning goods imported from the United States and Mexico by reference from the Governor in Council
19.011	Safeguard inquiries concerning goods imported from Israel by reference from the Governor in Council
19.012	Safeguard inquiries concerning goods imported from Chile by reference from the Governor in Council
19.013	Safeguard inquiries concerning goods imported from Costa Rica by reference from the Governor in Council
19.02	Mid-term reviews of safeguard measures and report
20	Global safeguard inquiries by reference from the Governor in Council
23(1)	Global safeguard complaints by domestic producers
23(1.01) and (1.03)	Safeguard complaints by domestic producers concerning goods imported from the United States
23(1.02) and (1.03)	Safeguard complaints by domestic producers concerning goods imported from Mexico
23(1.04)	Safeguard complaints by domestic producers concerning goods imported from Israel
23(1.05) and (1.06)	Safeguard complaints by domestic producers concerning goods imported from Chile
23 (1.07) and (1.08)	Safeguard complaints by domestic producers concerning goods imported from Costa Rica
30	Further safeguard inquiries by reference from the Governor in Council
30.01	Surge complaints regarding goods from NAFTA countries
30.011	Surge complaints regarding goods from Israel
30.012	Surge complaints regarding goods from Chile
30.08 and 30.09	Request for extension of safeguard measures
30.14	Complaints by potential suppliers in respect of government procurement for designated contracts
30.22	Complaints of market disruption in respect of goods originating in China
30.23	Complaints of trade diversion in respect of goods originating in China
30.24	Further inquiries into market disruption or trade diversion by reference from the Governor in Council
30.25	Expiry reviews of measures relating to market disruption or trade diversion in respect of goods originating in China
SIMA	
33 and 37	Advisory opinion on injury by reference from CBSA or further to a request by an affected party
34(2) and 35(3)	Preliminary injury inquiry
37.1	Preliminary determination of injury
42	Inquiries with respect to injury caused by the dumping and subsidizing of goods
43	Findings of the Tribunal concerning injury
44	Recommencement of inquiry (on remand from the Federal Court of Appeal or a binational panel)
45	Public interest inquiry
46	Advice to the CBSA regarding like goods
61	Appeals of re-determinations of the CBSA concerning normal values, export prices or subsidies or whether imported goods are goods of the same description as goods to which a Tribunal finding applies
76.01	Interim reviews of Tribunal orders and findings
76.02	Reviews resulting from CBSA's reconsideration of final determinations of dumping or subsidizing
76.03	Expiry reviews
76.1	Review at request of Minister of Finance as a result of ruling of WTO Dispute Settlement Body
89	Rulings on who is the importer for purposes of payment of anti-dumping or countervailing duties by request of CBSA
91	Reconsiderations of rulings on who is the importer

Section	Authority
Customs Act	
60.2	Application for an extension of time to request a re-determination or a further re-determination
67	Appeals of decisions of the CBSA concerning value for duty, origin and tariff classification of imported goods
67.1	Applications for orders extending time to file notices of appeal under section 67
70	References from CBSA for advisory opinions relating to the origin, tariff classification or value for duty of goods
Excise Tax Act	
81.19, 81.21, 81.22, 81.23, 81.25 and 81.33	Appeals of assessments and determinations of excise tax (on automobiles, air conditioners designed for use in automobiles, gasoline, aviation gasoline, diesel fuel and aviation fuel) made by the CRA
81.32	Application for extension of time for internal CRA objection procedure or for appeal to Tribunal
Energy Administration Act	
13	Declarations concerning liability for and the amount of any oil export charge that is payable where oil is transported by pipeline or other means to a point outside Canada

Method of Operation

In most areas of its jurisdiction, the Tribunal conducts public hearings. These are ordinarily held at the Tribunal's offices in Ottawa, Ontario, although hearings may also be held elsewhere in Canada, either in person or through videoconferencing. The Tribunal follows rules and procedures similar to those of a court of law; however, in order to facilitate greater access, they are not as formal or strict. The *CITT Act* states that hearings, generally conducted by a panel of three members, should be carried out as "informally and expeditiously" as the circumstances and considerations of fairness permit. The Tribunal has the power to subpoena witnesses and require parties to submit information. The *CITT Act* contains provisions for the protection of confidential information. Only independent counsel who have filed declarations and confidentiality undertakings may have access to confidential information. Protecting commercially sensitive information against unauthorized disclosure has been, and continues to be, of paramount importance to the Tribunal.

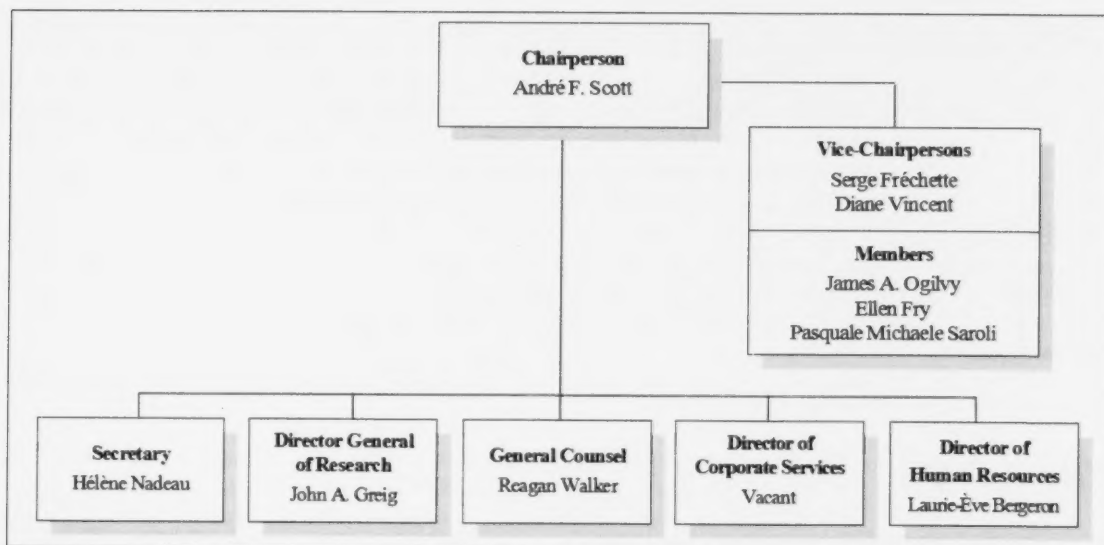
The Tribunal's Web site provides an exhaustive repository of all Tribunal notices, decisions and publications, as well as other information relating to the Tribunal's current activities. The Tribunal offers a notification service to inform subscribers of each new posting on its Web site. Subscribers can choose a specific category of interest. This service is free of charge.

Membership

The Tribunal may be composed of up to nine full-time members, including a Chairperson and two Vice-Chairpersons. All are appointed by the Governor in Council for a term of up to five years that is renewable once. The Chairperson is the Chief Executive Officer and is responsible for the assignment of members to cases and for the management of the Tribunal's work. Members come from a variety of educational backgrounds, careers and regions of the country.

Organization

There are currently 6 Tribunal members assisted by a permanent staff of 74 persons. Its principal officers are the Secretary, responsible for relations with the public and parties and the court registry functions of the Tribunal; the Director General of Research, responsible for the investigative portion of inquiries, including fact-finding related to trade, economic, commercial and tariff matters; the General Counsel, responsible for the provision of legal services; the Director of Corporate Services, responsible for management services; and the Director of Human Resources.



Consultations

Through the Bench and Bar Committee, the Tribunal provides a forum to promote discussion on issues of procedure. The committee includes representatives from the Canadian Bar Association, counsel at the Department of Justice and the trade consulting community who appear before the Tribunal. The Tribunal also consults with counsel, representatives of industries and others who appear or are likely to appear before the Tribunal to exchange views on new procedures being considered by the Tribunal prior to their distribution as guidelines or practice notices. The Tribunal also briefs federal government departments and trade associations on its procedures.

Judicial Review and Appeal to the Federal Court of Appeal

Any person affected by Tribunal findings or orders under section 43, 44, 76.01, 76.02 or 76.03 of *SIMA* can request judicial review by the Federal Court of Appeal, for instance, on grounds of alleged denial of natural justice or error of fact or law. Similarly, any person affected by Tribunal procurement findings and recommendations under the *CITT Act* can request judicial review by the Federal Court of Appeal. Lastly, Tribunal appeal orders and decisions, under the *Customs Act*, can be appealed to the Federal Court of Appeal or, under the *Excise Tax Act*, to the Federal Court.

Judicial Review by NAFTA Binational Panel

Tribunal findings or orders under section 43, 44, 76.01, 76.02 or 76.03 of *SIMA* involving goods from the United States and Mexico may be reviewed by a *NAFTA* binational panel.

WTO Dispute Resolution

Governments that are members of the WTO may challenge Tribunal injury findings or orders in dumping and countervailing duty cases before the WTO Dispute Settlement Body. This is initiated by intergovernmental consultations under the WTO Dispute Settlement Understanding.

CHAPTER III

DUMPING AND SUBSIDIZING INJURY INQUIRIES AND REVIEWS

Process

Under *SIMA*, the CBSA may impose anti-dumping and countervailing duties if Canadian producers are injured by imports of goods into Canada:

- sold at prices lower than sales in the home market or lower than the cost of production (dumping), or
- that have benefited from certain types of government grants or other assistance (subsidizing).

The determination of dumping and subsidizing is the responsibility of the CBSA. The Tribunal determines whether such dumping or subsidizing has caused "injury" or "retardation" or is threatening to cause injury to a domestic industry.

Preliminary Injury Inquiries

A Canadian producer or an association of Canadian producers begins the process of seeking relief from alleged injurious dumping or subsidizing by making a complaint to the CBSA. If the CBSA initiates a dumping or subsidizing investigation, the Tribunal initiates a preliminary injury inquiry under subsection 34(2) of *SIMA*. The Tribunal seeks to make all interested parties aware of the inquiry. It issues a notice of commencement of preliminary injury inquiry that is published in the *Canada Gazette* and forwarded to all known interested persons.

In a preliminary injury inquiry, the Tribunal determines whether the evidence discloses a "reasonable indication" that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury. The primary evidence is the information received from the CBSA and submissions from parties. The Tribunal seeks the views of parties on what are the like goods and which Canadian producers comprise the domestic industry. In most cases, it does not issue questionnaires or hold a public hearing. The Tribunal completes its inquiry and renders its determination within 60 days.

If the Tribunal finds that there is a reasonable indication that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury, it makes a determination to that effect, and the CBSA continues the dumping or subsidizing investigation. If there is no reasonable indication that the dumping or subsidizing has caused injury or retardation, or is threatening to cause injury, the Tribunal terminates the inquiry, and the CBSA terminates the dumping or subsidizing investigation. The Tribunal issues reasons for its decision not later than 15 days after its determination.

Preliminary Injury Inquiry Activities

Preliminary injury inquiry no.	PI-2008-001	PI-2008-002	PI-2008-003
Product	Thermoelectric containers	Aluminum extrusions	Waterproof footwear
Type/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping/China and Vietnam
Date of determination	July 14, 2008	October 17, 2008	In progress
Determination	Injury	Injury	
Participants	8	35	
Pages of official record	2,135	3,587	

Preliminary Injury Inquiries Completed in Fiscal Year and in Progress at the End of the Fiscal Year

The Tribunal completed two preliminary injury inquiries in the fiscal year. There was one preliminary injury inquiry in progress at the end of the fiscal year.

Final Injury Inquiries

If the CBSA makes a preliminary determination of dumping or subsidizing, the Tribunal commences a final injury inquiry under section 42 of *SIMA*. The CBSA may levy provisional duties on imports from the date of the preliminary determination. The CBSA continues its investigation to a final determination of dumping or subsidizing.

As in a preliminary injury inquiry, the Tribunal seeks to make all interested parties aware of its inquiry. It issues a notice of commencement of inquiry that is published in the *Canada Gazette* and forwarded to all known interested parties.

In conducting final injury inquiries, the Tribunal requests information from interested parties, receives representations and holds public hearings. The Tribunal's staff carries out extensive research for each inquiry. The Tribunal sends questionnaires to Canadian producers, importers, purchasers and foreign producers/exporters. Based primarily on questionnaire responses, the Tribunal's staff prepares a report that focuses on the factors that the Tribunal considers in arriving at decisions regarding injury or retardation or threat of injury to a domestic industry. The report becomes part of the case record and is made available to counsel and parties.

Parties participating in the proceedings may conduct their own cases or be represented by counsel. Confidential or business-sensitive information is protected in accordance with provisions of the *CITT Act*.

The *Special Import Measures Regulations* prescribe factors that the Tribunal may consider in its determination of whether the dumping or subsidizing of goods has caused injury or retardation or is threatening to cause injury to a domestic industry. These factors include, among others, the volume of dumped or subsidized goods, the effects of the dumped or subsidized goods on prices and the impact of the dumped or subsidized goods on domestic production, sales, market shares, profits, employment and utilization of domestic production capacity.

The Tribunal holds a public hearing about 90 days after the commencement of the inquiry, usually starting once the CBSA has made a final determination of dumping or subsidizing. At the public hearing, Canadian producers attempt to persuade the Tribunal that the dumping or subsidizing of goods has caused

injury or retardation or is threatening to cause injury to a domestic industry. Importers and foreign producers/exporters may challenge the Canadian producers' case. After cross-examination by parties and questioning by the Tribunal, each side has an opportunity to respond to the other's case and to summarize its own. In many inquiries, the Tribunal calls witnesses who are knowledgeable about the industry and market in question. Parties may also seek the exclusion of certain goods from the effects of a Tribunal finding.

The Tribunal must issue its finding within 120 days from the date of the preliminary determination of dumping and/or subsidizing by the CBSA. It has an additional 15 days to issue a statement of reasons supporting its finding. A Tribunal finding of injury or retardation or threat of injury to a domestic industry is the legal authority for the CBSA to impose anti-dumping or countervailing duties.

Final Injury Inquiry Activities

Inquiry no.	NQ-2008-001	NQ-2008-002	NQ-2008-003
Product	Carbon steel welded pipe	Thermoelectric containers	Aluminum extrusions
Type/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/China
Date of finding	August 20, 2008	December 11, 2008	March 17, 2009
Finding	Injury	Injury	Injury
Questionnaires sent	75	89	141
Questionnaire responses received	50	35	100
Requests for exclusions	13	9	119 ¹
Requests for exclusions granted	3	0	6 ²
Participants	8	7	61
Exhibits	399	301	1,218
Pages of official record	8,805	5,084	25,332
Public hearing days	4	4	5
Witnesses	13	9	21

1. These requests for exclusions covered in excess of 2,000 products.

2. The requests for exclusions granted covered approximately 475 products.

Final Injury Inquiries Completed in the Fiscal Year

The Tribunal completed three final injury inquiries in the fiscal year. They concerned *Carbon Steel Welded Pipe* (NQ-2008-001), *Thermoelectric Containers* (NQ-2008-002) and *Aluminum Extrusions* (NQ-2008-003). In 2007, the estimated values of the Canadian market for these goods were, respectively, \$199 million, \$13 million and \$1.1 billion. The following summaries were prepared for general information purposes and have no legal status.

NQ-2008-001—Carbon Steel Welded Pipe

This inquiry concerned dumped and subsidized imports from China.

In its investigation, the Tribunal sent detailed questionnaires to 9 known domestic producers, 25 of the largest importers, 11 foreign producers/exporters of the subject goods in the named country and 30 purchasers of carbon steel welded pipe. Of the 75 questionnaires sent, 50 responses were received. There were 8 participants to the inquiry, with 13 witnesses appearing before the Tribunal during 4 days of public hearing. The official record consisted of 399 exhibits, totalling 8,805 pages of documents.

Preliminary Injury Inquiry Activities

Preliminary injury inquiry no.	PI-2008-001	PI-2008-002	PI-2008-003
Product	Thermoelectric containers	Aluminum extrusions	Waterproof footwear
Type/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping/China and Vietnam
Date of determination	July 14, 2008	October 17, 2008	In progress
Determination	Injury	Injury	
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The *Special Import Measures Regulations* prescribe factors that the Tribunal may consider in its determination of whether the dumping or subsidizing of goods has caused injury or retardation or is threatening to cause injury to a domestic industry. These factors include, among others, the volume of dumped or subsidized goods, the effects of the dumped or subsidized goods on prices and the impact of the dumped or subsidized goods on domestic production, sales, market shares, profits, employment and utilization of domestic production capacity.

The Tribunal holds a public hearing about 90 days after the commencement of the inquiry, usually starting once the CBSA has made a final determination of dumping or subsidizing. At the public hearing, Canadian producers attempt to persuade the Tribunal that the dumping or subsidizing of goods has caused

injury or retardation or is threatening to cause injury to a domestic industry. Importers and foreign producers/exporters may challenge the Canadian producers' case. After cross-examination by parties and questioning by the Tribunal, each side has an opportunity to respond to the other's case and to summarize its own. In many inquiries, the Tribunal calls witnesses who are knowledgeable about the industry and market in question. Parties may also seek the exclusion of certain goods from the effects of a Tribunal finding.

The Tribunal must issue its finding within 120 days from the date of the preliminary determination of dumping and/or subsidizing by the CBSA. It has an additional 15 days to issue a statement of reasons supporting its finding. A Tribunal finding of injury or retardation or threat of injury to a domestic industry is the legal authority for the CBSA to impose anti-dumping or countervailing duties.

Final Injury Inquiry Activities

Inquiry no.	NQ-2008-001	NQ-2008-002	NQ-2008-003
Product	Carbon steel welded pipe	Thermoelectric containers	Aluminum extrusions
Type/country	Dumping and subsidizing/China	Dumping and subsidizing/China	Dumping and subsidizing/China
Date of finding	August 20, 2008	December 11, 2008	March 17, 2009
Finding	Injury	Injury	Injury
Questionnaires sent	75	89	141
Questionnaire responses received	50	35	100
Requests for exclusions	13	9	119 ¹
Requests for exclusions granted	3	0	6 ²
Participants	8	7	61
Exhibits	399	301	1,218
Pages of official record	8,805	5,084	25,332
Public hearing days	4	4	5
Witnesses	13	9	21

1. These requests for exclusions covered in excess of 2,000 products.
2. The requests for exclusions granted covered approximately 475 products.

Final Injury Inquiries Completed in the Fiscal Year

The Tribunal completed three final injury inquiries in the fiscal year. They concerned *Carbon Steel Welded Pipe* (NQ-2008-001), *Thermoelectric Containers* (NQ-2008-002) and *Aluminum Extrusions* (NQ-2008-003). In 2007, the estimated values of the Canadian market for these goods were, respectively, \$199 million, \$13 million and \$1.1 billion. The following summaries were prepared for general information purposes and have no legal status.

NQ-2008-001—Carbon Steel Welded Pipe

This inquiry concerned dumped and subsidized imports from China.

In its investigation, the Tribunal sent detailed questionnaires to 9 known domestic producers, 25 of the largest importers, 11 foreign producers/exporters of the subject goods in the named country and 30 purchasers of carbon steel welded pipe. Of the 75 questionnaires sent, 50 responses were received. There were 8 participants to the inquiry, with 13 witnesses appearing before the Tribunal during 4 days of public hearing. The official record consisted of 399 exhibits, totalling 8,805 pages of documents.

The Tribunal first determined that carbon steel welded pipe produced in Canada, including non-prime material derived from oil country tubular goods and line pipe production sold in the Canadian market and referred to as seconds, was like goods in relation to the subject goods. The Tribunal then concluded that only four domestic producers of carbon steel welded pipe, which accounted for well over three quarters of the total domestic production of like goods, constituted the domestic industry.

The Tribunal found that the domestic industry was materially injured by the significant increase in the volume of imports of the subject goods in terms of significant price undercutting, price depression and price suppression, significant unused capacity, reduced domestic production, lost domestic sales and market share, as well as diminished gross margins and net income.

With respect to other indicators of injury, while the Tribunal noted that performance indicia, such as employment, productivity and inventories, were positive or only marginally negative over the period of inquiry, it did not consider that these results negated the significant deterioration observed in the domestic industry's other performance indicia.

Regarding requests for exclusions, of the 11 requests for product exclusions and of the 2 for a regional exclusion, the Tribunal granted 3 requests for product exclusions and denied both requests for a regional exclusion.

NQ-2008-002—Thermoelectric Containers

This inquiry concerned dumped and subsidized imports from China.

In its investigation, the Tribunal sent detailed questionnaires to the 2 known domestic producers, 28 of the largest importers, 43 foreign producers/exporters of the subject goods in the named country and 16 purchasers of thermoelectric containers. Of the 89 questionnaires sent, 35 responses were received. There were 7 participants to the inquiry, with 9 witnesses appearing before the Tribunal during 4 days of public hearing. The official record consisted of 301 exhibits, totalling 5,084 pages of documents.

The Tribunal first determined that domestically produced thermoelectric containers were like goods in relation to the subject goods. The Tribunal then concluded that the like goods constituted a single class of goods.

The Tribunal found that the domestic industry was materially injured by the significant increase in the volume of imports of the subject goods in terms of price undercutting, price suppression, reduced domestic production and capacity utilization, declined employment, lost domestic sales and market share, as well as increased net losses.

With respect to factors other than the dumping and subsidizing, such as a domestic producer's production strategy and productivity, imports of the subject goods, the relationship with the largest seller of thermoelectric containers in the Canadian market and an inability to compete with low-cost goods, as well as competition from substitute products, the Tribunal was of the view that any injurious effect attributable to these factors did not negate its injury conclusion.

Regarding requests for exclusions, the Tribunal denied all eight requests for product exclusions and the request for a producer exclusion.

NQ-2008-003—Aluminum Extrusions

This inquiry concerned dumped and subsidized imports from China.

In its investigation, the Tribunal sent detailed questionnaires to the 12 known domestic producers, 50 of the largest importers, 29 foreign producers/exporters of the subject goods in the named country and 50 purchasers of thermoelectric containers. Of the 141 questionnaires sent, 100 responses were received. There were 61 participants to the inquiry, with 21 witnesses appearing before the Tribunal during 5 days of public hearing. The official record consisted of 1,218 exhibits, totalling 25,332 pages of documents.

The Tribunal first found that domestically produced aluminum extrusions, defined in the same manner as the subject goods, constituted like goods in relation to the subject goods. On the issue of classes of goods, the Tribunal determined that aluminum extrusion products produced in standard shapes and aluminum extrusion products produced in custom shapes constituted two separate classes of goods.

With respect to standard-shaped aluminum extrusions, the Tribunal concluded that imports of the subject goods had significantly increased and had severely undercut and, to a lesser degree, suppressed the prices of the like goods in the Canadian market. The Tribunal indicated that this resulted in material injury to the domestic industry in the form of lost market share, lost sales, declining financial performance, as well as a negative impact on investments, cash flow, growth and the ability to raise capital. The Tribunal added that, notwithstanding any of the losses or injury that might be attributable to other factors, including the level of integration regarding the range of services offered by the domestic industry, the competition from non-subject imports, export sales to the United States, the economic downturn, imports of the subject goods by some domestic producers, intra-industry competition, the exchange rate and the allocation of production to export markets, it was of the view that the injury caused by imports of the subject goods was, in and of itself, material.

With respect to custom-shaped aluminum extrusions, the Tribunal found that the domestic industry was materially injured by the significant increase in the volume of imports of the subject goods in the form of price undercutting, price suppression, decreasing production and capacity utilization, lost market share, lost sales, declining financial performance, reduced employment, as well as a negative impact on wages, return on investments, cash flow, growth and ability to raise capital. The Tribunal added that, notwithstanding any of the losses or injury that might be attributable to other factors, including the level of integration regarding the range of services offered by the domestic industry, the competition from non-subject imports, export sales to the United States, the contraction of demand, the economic downturn, imports of the subject goods by some domestic producers, intra-industry competition, the exchange rate and the allocation of production to export markets, it was of the view that the injury caused by imports of the subject goods was, in and of itself, material.

Regarding requests for exclusions, the Tribunal received 119 requests from 34 different requesters. Taken together, these requests covered in excess of 2,000 individual products. The Tribunal granted 6 requests for exclusions covering approximately 475 products.

Final Injury Inquiries in Progress at the End of the Fiscal Year

There were no final injury inquiries in progress at the end of the fiscal year.

Public Interest Inquiries Under Section 45 of SIMA

Following a finding of injury, the Tribunal notifies all interested parties that any submissions requesting a public interest inquiry must be filed within 45 days. It may initiate, either after a request from an interested person or on its own initiative, a public interest inquiry following a finding of injury caused by dumped or subsidized imports, if it is of the opinion that there are reasonable grounds to consider that the imposition of part or all of the duties may not be in the public interest. If it is of this view, it then conducts a public interest inquiry pursuant to section 45 of *SIMA*. The result of this inquiry may be a report to the Minister of Finance recommending that the duties be reduced and by how much.

Following its injury finding of August 20, 2008, in *Carbon Steel Welded Pipe* (NQ-2008-001), the Tribunal received two properly documented requests for a public interest inquiry, which argued that the imposition of duties significantly lessened competition in Western Canada and had caused damage to end users. As a result, the Tribunal notified all interested parties that it had received properly documented requests for a public interest inquiry and that they could, if they wished, file reply submissions. The Tribunal received reply submissions from five parties.

On December 19, 2008, the Tribunal decided not to initiate a public interest inquiry into this matter, as it was of the opinion that there were no reasonable grounds to consider that the imposition of an anti-dumping or countervailing duty, or the imposition of such a duty in the full amount, would not or might not be in the public interest. The Tribunal concluded that neither requester made a persuasive case with respect to the negative effects that the imposition of duties has had or might have on the public interest.

Interim Reviews

The Tribunal may review its findings of injury or orders at any time, on its own initiative or at the request of the Minister of Finance, the CBSA or any other person or government (section 76.01 of *SIMA*). It commences an interim review where one is warranted and determines if the finding or order (or any aspect of it) should be rescinded or continued to its expiry date, with or without amendment.

An interim review may be warranted where there is a reasonable indication that new facts have arisen or that there has been a change in the circumstances that led to the finding or order. For example, since the finding or order, the domestic industry may have ceased production of like goods or foreign subsidies may have been terminated. An interim review may also be warranted where there are facts that, although in existence, were not put into evidence during the previous review or inquiry and were not discoverable by the exercise of reasonable diligence at that time.

Interim Review Activities

Interim review no.	RD-2008-001
Product	Fasteners
Type/country	Dumping/China and Chinese Taipei Subsidizing/China
Date of order	October 24, 2008
Order	Findings continued
Participants	4
Exhibits	34
Pages of official record	300

Interim Reviews Completed in the Fiscal Year

The Tribunal completed one interim review in the fiscal year.

In Interim Review No. RD-2008-001, *Fasteners*, there were 4 participants. The official record consisted of 34 exhibits, totalling 300 pages of documents.

At issue in the interim review was a request dated April 15, 2008, and subsequent information received on May 1 and July 2, 2008, to exclude certain screws from the scope of the Tribunal's findings dated January 7, 2005. On October 24, 2008, the Tribunal determined that the exclusion of the screws in question would cause injury to the domestic industry and potentially restrict competition in the Canadian market. Therefore, the Tribunal made no amendment to its findings.

Expiries

Subsection 76.03(1) of *SIMA* provides that a finding or order expires after five years, unless an expiry review has been initiated. Not later than 10 months before the expiry date of the order or finding, the Secretary of the Tribunal publishes a notice of expiry in the *Canada Gazette*. The notice invites persons and governments to submit their views on whether the order or finding should be reviewed and gives direction on the issues that should be addressed in the submissions.

Expiry Activities

Expiry no.	LE-2007-003	LE-2007-004	LE-2008-001	LE-2008-002	LE-2008-003
Product	Structural tubing	Hot-rolled carbon steel plate and high-strength low-alloy steel plate	Wood slats	Stainless steel wire	Fasteners
Type/country	Dumping/Korea, South Africa and Turkey	Dumping/Bulgaria, Czech Republic and Romania	Dumping/Mexico and China	Dumping/Korea, Switzerland and United States Subsidizing/India	Dumping/China and Chinese Taipei Subsidizing/China
Date of order/notice of expiry review	April 9, 2008	April 23, 2008	November 7, 2008	November 12, 2008	In progress
Decision	Expiry review initiated	Expiry review initiated	Expiry review initiated	Expiry review initiated	
Participants	3	2	2	3	
Pages of official record	175	149	250	500	

In fiscal year 2008-2009, the Tribunal decided to commence expiry reviews in four cases.

On the basis of submissions from interested parties, the Tribunal was of the view that expiry reviews were warranted and initiated Expiry Review No. RR-2008-001 respecting *Structural Tubing*, Expiry Review No. RR-2008-002 respecting *Hot-rolled Carbon Steel Plate and High-strength Low-alloy Steel Plate*, Expiry Review No. RR-2008-003 respecting *Wood Slats* and Expiry Review No. RR-2008-004 respecting *Stainless Steel Wire*.

Consideration of Expiry No. LE-2008-003, *Fasteners*, was in progress at the end of the fiscal year.

Expiry Reviews

The Tribunal initiates a review of an order or finding, as requested, if it determines that such a review is warranted. It then issues a notice of expiry review and notifies the CBSA of its decision. The notice of expiry review is published in the *Canada Gazette* and forwarded to all known interested parties. If the Tribunal determines that an expiry review is not warranted, it will issue an order with reasons for its decision.

The purpose of an expiry review is to determine whether anti-dumping or countervailing duties remain necessary. There are two phases in an expiry review. The first phase is the investigation by the CBSA to determine whether there is a likelihood of resumed or continued dumping or subsidizing if the finding or order expires. If the CBSA determines that such likelihood exists with respect to any of the goods, the second phase is the Tribunal's inquiry into the likelihood of injury or retardation. If the CBSA determines that such likelihood does not exist for any of the goods, the Tribunal does not consider those goods in its subsequent determination of the likelihood of injury and issues an order rescinding the order or finding with respect to those goods.

The Tribunal's procedures in expiry reviews are similar to those in final injury inquiries.

Upon completion of an expiry review, the Tribunal issues an order with reasons, rescinding or continuing a finding or order, with or without amendment. If a finding or order is continued, it remains in force for a further five years, unless an interim review has been initiated and the finding or order is rescinded. If the finding or order is rescinded, imports are no longer subject to anti-dumping or countervailing duties.

Expiry Review Activities

Review no.	RR-2007-003	RR-2008-001	RR-2008-002	RR-2008-003	RR-2008-004
Product	Carbon steel pipe nipples and adaptor fittings	Structural tubing	Hot-rolled carbon steel plate and high-strength low-alloy steel plate	Wood slats	Stainless steel wire
Type/country	Dumping/China	Dumping/Korea, South Africa and Turkey	Dumping/Bulgaria, Czech Republic and Romania	Dumping/Mexico and China	Dumping/Korea, Switzerland and United States Subsidizing/India
Date of order	July 15, 2008	December 22, 2008	January 8, 2009		
Order	Finding continued	Finding continued	Finding continued	In progress	In progress
Questionnaires sent ¹	65	112	97		
Questionnaire responses received ²	15	42	32		
Participants	3	4	3		
Exhibits	313	268	299		
Pages of official record	4,797	4,784	8,346		
Public hearing days	3	2	2		
Witnesses	11	8	6		

- Expiry review questionnaires are sent to companies based on a comprehensive list of known domestic producers and to all potential importers and exporters for use by the CBSA and the Tribunal.
- As in the case of final injury inquiries, the Tribunal focuses its questionnaire response follow-up on all known domestic producers and the largest importers that generally account for 80 percent or more of the subject imports during the period of review.

Expiry Reviews Completed in the Fiscal Year

In the fiscal year, the Tribunal completed three expiry reviews.

RR-2007-003—Carbon Steel Pipe Nipples and Adaptor Fittings

In its investigation, the Tribunal sent detailed questionnaires to the 3 known domestic producers, 45 of the largest importers and 17 foreign manufacturers of the subject goods in the named country. Of the 65 questionnaires sent, 15 responses were received. There were 3 participants to the expiry review, with 11 witnesses appearing before the Tribunal during 3 days of public hearing. The official record consisted of 313 exhibits, totalling 4,797 pages of documents.

On July 15, 2008, the Tribunal continued its finding made on July 16, 2003, in Inquiry No. NQ-2002-004, as amended on June 8, 2007, in Interim Review No. RD-2006-006, concerning carbon steel pipe nipples and adaptor fittings, in nominal diameters up to and including 6 inches or the metric equivalents, originating in or exported from China.

RR-2008-001—Structural Tubing

In its investigation, the Tribunal sent detailed questionnaires to the 11 known domestic producers, 78 of the largest importers and 23 foreign manufacturers of the subject goods in the named countries. Of the 112 questionnaires sent, 42 responses were received. There were 4 participants to the expiry review, with 8 witnesses appearing before the Tribunal during 2 days of public hearing. The official record consisted of 268 exhibits, totalling 4,784 pages of documents.

On December 22, 2008, the Tribunal continued its finding made on December 23, 2003, in Inquiry No. NQ-2003-001 in respect of structural tubing known as hollow structural sections made of carbon and alloy steel, welded, in sizes up to and including 16 inches (406.4 mm) in outside diameter for round products and up to and including 48 inches (1,219.2 mm) in periphery for rectangular and square products, commonly but not exclusively made to ASTM A500, ASTM A513, CSA G.40.21-87-50W and comparable specifications, originating in or exported from Korea, South Africa and Turkey.

RR-2008-002—Hot-rolled Carbon Steel Plate and High-strength Low-alloy Plate

In its investigation, the Tribunal sent detailed questionnaires to the 3 known domestic producers, 77 of the largest importers and 17 foreign manufacturers of the subject goods in the named countries. Of the 97 questionnaires sent, 32 responses were received. There were 3 participants to the expiry review, with 6 witnesses appearing before the Tribunal during 2 days of public hearing. The official record consisted of 299 exhibits, totalling 8,346 pages of documents.

On January 8, 2009, the Tribunal continued its finding made on January 9, 2004, in Inquiry No. NQ-2003-002 respecting hot-rolled carbon steel plate and high-strength low-alloy plate not further manufactured than hot-rolled, heat-treated or not, in cut lengths in widths from 24 inches (+/-610 mm) to 152 inches (+/-3,860 mm) inclusive and in thicknesses from 0.187 inch (+/-4.75 mm) to 4 inches (+/-101.6 mm) inclusive, originating in or exported from Bulgaria, the Czech Republic and Romania, excluding plate produced to American Society for Testing and Materials specifications A515 and A516M/A516 Grade 70 in thicknesses greater than 3.125 inches (+/-79.3 mm), universal mill plate, plate for use in the manufacture of pipe and plate having a rolled, raised figure at regular intervals on the surface (also known as floor plate).

Expiry Reviews in Progress at the End of the Fiscal Year

There were two expiry reviews in progress at the end of the fiscal year.

RR-2008-003—Wood Slats

This is a review of the findings made on June 18, 2004, in Inquiry No. NQ-2003-003 concerning wood slats originating in or exported from Mexico and China.

RR-2008-004—Stainless Steel Wire

This is a review of the findings made on July 30, 2004, in Inquiry No. NQ-2004-001 concerning the dumping of cold drawn and annealed stainless steel round wire, up to and including 0.3 inches (7.62 mm) in maximum solid cross-sectional dimension (stainless steel wire), originating in or exported from Korea, Switzerland and the United States, excluding various products, and the subsidizing of stainless steel wire originating in or exported from India, excluding various products.

Judicial or Panel Reviews of SIMA Decisions

The following table lists the Tribunal's decisions under section 43, 44 or 76 of *SIMA* that were before the Federal Court of Appeal in the fiscal year.

Case No.	Product	Country of Origin	File No.
NQ-2004-005R	Fasteners	China and Chinese Taipei	A—468—06 Application dismissed (April 17, 2008)
NQ-2007-001	Seamless carbon or alloy steel oil and gas well casing	China	A—164—08 Application discontinued (April 10, 2008)

Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not always participate in appeals to the Federal Court of Appeal or the Federal Court, it is unable to confirm that the list contains all appeals or decisions rendered that were before the Federal Court of Appeal and the Federal Court.

WTO Dispute Resolutions

There were no Tribunal findings or orders before the WTO Dispute Settlement Body during the fiscal year.

SIMA Findings and Orders in Force as of March 31, 2009

Review No. or Inquiry No.	Date of Decision	Product	Type/Country	Related Decision No. and Date
NQ-2003-003	June 18, 2004	Wood slats	Dumping/Mexico and China	
NQ-2004-001	July 30, 2004	Stainless steel wire	Dumping/Korea, Switzerland and United States	
			Subsidizing/India	
NQ-2004-005	January 7, 2005	Fasteners	Dumping/China and Chinese Taipei	
			Subsidizing/China	
NQ-2004-006	June 16, 2005	Laminate flooring	Dumping/China and France	
			Subsidizing/China	
NQ-2006-002	February 19, 2007	Copper pipe fittings	Dumping/United States, Korea and China	
			Subsidizing/China	
NQ-2007-001	March 10, 2008	Seamless carbon or alloy steel oil and gas well casing	Dumping and subsidizing/China	
NQ-2008-001	August 20, 2008	Carbon steel welded pipe	Dumping and subsidizing/China	
NQ-2008-002	December 11, 2008	Thermoelectric containers	Dumping and subsidizing/China	
NQ-2008-003	March 17, 2009	Aluminum extrusions	Dumping and subsidizing/China	
RR-2004-006	September 12, 2005	Whole potatoes	Dumping/United States	RR-99-005 (September 13, 2000) RR-94-007 (September 14, 1995) RR-89-010 (September 14, 1990) CIT-16-85 (April 18, 1986) ADT-4-84 (June 4, 1984)
RR-2004-007	November 2, 2005	Refined sugar	Dumping/United States, Denmark, Germany, Netherlands and United Kingdom	RR-99-006 (November 3, 2000) NQ-95-002 (November 6, 1995)
			Subsidizing/European Union	NQ-2000-004 (December 8, 2000)
RR-2004-008	December 7, 2005	Waterproof footwear and bottoms	Dumping/China	NQ-2001-001 (August 17, 2001)
RR-2005-002	August 16, 2006	Flat hot-rolled carbon and alloy steel sheet and strip	Dumping/Brazil, China, Chinese Taipei, India, South Africa and Ukraine	
			Subsidizing/India	
RR-2006-001	December 10, 2007	Bicycles	Dumping/Chinese Taipei and China	RR-2002-001 (December 9, 2002) RR-97-003 (December 10, 1997) NQ-92-002 (December 11, 1992)
RR-2007-001	January 9, 2008	Hot-rolled carbon steel plate	Dumping/China	RR-2001-006 (January 10, 2003) NQ-97-001 (October 27, 1997)
RR-2007-003	July 15, 2008	Carbon steel pipe nipples and adaptor fittings	Dumping/China	RD-2006-006 (June 8, 2007) NQ-2002-004 (July 16, 2003)
RR-2008-001	December 22, 2008	Structural tubing	Dumping/Korea, South Africa and Turkey	NQ-2003-001 (December 23, 2003)
RR-2008-002	January 8, 2009	Hot-rolled carbon steel plate and high-strength low-alloy steel plate	Dumping/Bulgaria, Czech Republic and Romania	NQ-2003-002 (January 9, 2004)

Note: For complete product descriptions, refer to the most recent finding or order available at www.cit-tce.gc.ca.

CHAPTER IV

PROCUREMENT REVIEW

Introduction

Potential suppliers that believe that they may have been unfairly treated during a solicitation covered by one or all of *NAFTA*, the *AIT*, the *AGP* or the *CCFTA* may file a formal complaint with the Tribunal. They are encouraged however to first attempt to resolve the issue with the government institution responsible for the procurement.

The Tribunal's role is to determine whether the government institution responsible for the procurement has observed the procurement procedures and other requirements specified in *NAFTA*, the *AIT*, the *AGP* and the *CCFTA*.

When the Tribunal receives a complaint, it reviews the submission against the criteria for filing. If there are deficiencies, the complainant is given an opportunity to correct these within the specified time limit. If the Tribunal decides to conduct an inquiry, the government institution and all other interested parties are sent a formal notification of the complaint and a copy of the complaint itself. An official notice of the complaint is also published on MERX and in the *Canada Gazette*. If the contract in question has not been awarded, the Tribunal may order the government institution to postpone awarding any contract pending the disposition of the complaint by the Tribunal.

After receipt of its copy of the complaint, the government institution responsible for the procurement files a response called the Government Institution Report. The complainant and any intervener are sent a copy of the response and then have the opportunity to submit comments. Any comments made are forwarded to the government institution and other parties to the inquiry.

Copies of any other submissions or reports prepared for the inquiry are also circulated to all parties for their comments. Once this phase of the inquiry is completed, the Tribunal reviews the information collected and decides if a public hearing is necessary or if the case can be decided on the basis of the information on the record.

The Tribunal then determines whether the complaint is valid. If so, the Tribunal may make recommendations for remedies, such as re-tendering, re-evaluating or providing compensation. The government institution, as well as all other parties and interested persons, is notified of the Tribunal's decision. Recommendations made by the Tribunal are, by statute, to be implemented to the greatest extent possible. The Tribunal may also award reasonable costs to the complainant or the responding government institution depending on the nature and circumstances of the case.

Procurement Complaints

Summary of Activities

	2007-2008	2008-2009
Number of Complaints		
Carried over from previous fiscal year	8	18
Received in fiscal year	95	63
Remanded	1	2
Total	104	83
Cases Resolved		
Withdrawn or resolved by the parties	4	1
Abandoned while filing	1	-
Subtotal	5	1
Inquiries Not Initiated		
Lack of jurisdiction	3	3
Late or improper filing	10	9
No valid basis/no reasonable indication of a breach/premature	45	29
Subtotal	58	41
Inquiry Results		
Complaints dismissed	2	3
Complaints not valid	6	17
Complaints valid or valid in part	13	10
Decisions on remand	1	1
Inquiries ceased	1	-
Subtotal	23	31
Outstanding at End of Fiscal Year	18	10

In 2008-2009, the Department of Public Works and Government Services (PWGSC) issued approximately 17,360 contracts valued at between \$25,000 and \$610 million, for a total value of \$12.5 billion. The 63 complaints received in the fiscal year pertained to 60 different contracts, representing about 0.3 percent of the total number of contracts issued by PWGSC in 2008-2009.

Summary of Selected Determinations

During the fiscal year, the Tribunal rendered decisions in 72 cases. Ten cases were still in progress at the end of the fiscal year. The table at the end of this chapter summarizes these activities.

Of the cases investigated by the Tribunal in carrying out its procurement review functions, certain decisions stand out because of their legal significance. Brief summaries of a representative sample of these cases are included below. These summaries have been prepared for general information purposes only and are of no legal effect.

PR-2008-008 and PR-2008-009—Bell Mobility

The Tribunal considered these cases on the basis of written submissions. There were 4 participants in these inquiries. The official record consisted of 43 exhibits.

These were two complaints filed by Bell Mobility concerning a procurement by PWGSC for the provision of mobile wireless products and services. Bell Mobility alleged that PWGSC improperly amended two existing contracts pertaining to the provision of mobile wireless products and services to include the provision of new services, which had the effect of precluding competition.

The Tribunal found that the 30-MB-based aircard service called for under the original Request for Proposal (RFP) (as amended) and the new 1-GB-based service introduced by amendment to the existing contracts constituted separate service plans that differed in important respects. As such, the 1-GB-based line items added to the existing contracts substantially changed the mandatory specifications for aircard services, as set out in the original RFP (as amended). Therefore, the Tribunal found that, by proceeding in the manner in which it did, PWGSC effectively conducted a new procurement without competition.

The Tribunal believed that Bell Mobility would be afforded the opportunity to compete for the existing service and to bid on aircard service requirements in a new solicitation in the near future. Therefore, the Tribunal did not recommend compensation for lost profit or lost opportunity, nor did it recommend the immediate award of a parallel contract to Bell Mobility. The Tribunal was of the view that, although PWGSC breached the *AIT* by not tendering the 1-GB flat rate aircard service plan and that there was an effect on other suppliers, the breach was not considered an egregious error having regard to the small number of heavy users and operational considerations. Therefore, the Tribunal recommended that, with respect to the new service, PWGSC either not exercise the option to extend the existing contracts or conduct a separate solicitation for the new service should the existing contracts be extended.

PR-2008-017—Bluedrop Performance Learning Inc.

The Tribunal considered this case on the basis of written submissions. There were 2 participants in this inquiry. The official record consisted of 43 exhibits.

The complaint was filed by Bluedrop Performance Learning Inc. (Bluedrop) concerning a procurement by PWGSC on behalf of the Department of National Defence (DND) for Learning Management System—School Administration Services. Bluedrop alleged that PWGSC had failed to properly apply an express term of the RFP and disqualify a bidder that was in a clear conflict of interest position.

The RFP at issue was the second of two that had been tendered for the same requirement. The bid validity period for the first RFP (RFP-1) expired before PWGSC could award a contract, so a second RFP (RFP-2) was issued. RFP-2 was for the same requirement as RFP-1 and contained a clause stating that PWGSC could reject a bidder's proposal if that bidder, its subcontractors, employees or former employees were involved in any manner in the preparation of the bid solicitation. The clause also stated that, by submitting a proposal, the bidder represented that it was not in such a conflict position.

The Tribunal determined that the winning bidder had hired a person who would have been the DND technical authority for any contract that would have been awarded in relation to RFP-1, had maintained an overview of the RFP-1 project and provided technical advice for the preparation of RFP-1, and whose subordinates had had a direct role in drafting RFP-1. During the proceedings, PWGSC advised the Tribunal that, given the circumstances of the case, the other bidder should have been disqualified. Given the above, the Tribunal determined that the circumstances surrounding the successful bid proposal did in fact give rise to a conflict of interest and a well-founded apprehension of unfair advantage.

The Tribunal recommended that PWGSC cancel the contract and award it to Bluedrop and compensate Bluedrop for the profit that it lost in not being awarded the contract in the first instance. The Tribunal also recommended, for operational reasons, if PWGSC chose not to cancel the contract, that the requirement be re-competed and, in addition to compensating Bluedrop for the profits that it lost, that it be compensated for the loss of the incumbency advantage that it would have earned had it been properly awarded the RFP-2 contract.

PR-2008-033—MTS Allstream Inc.

The Tribunal considered this case on the basis of written submissions. There were 2 participants in this inquiry. The official record consisted of 27 exhibits.

This was a complaint filed by MTS Allstream Inc. (MTS) concerning a procurement by PWGSC on behalf of the Royal Canadian Mounted Police for portable and mobile radios. MTS alleged that PWGSC initially informed it that its proposal was compliant, but that the contract had been awarded to Motorola Canada Limited (Motorola) because Motorola had submitted a lower cost proposal. According to MTS, when it informed PWGSC that it should have been awarded the contract based on the scenarios for award listed in the RFP, PWGSC re-evaluated MTS's bid and improperly declared it non-compliant.

The Tribunal found that the terms of the RFP were clear in that bidders were required to submit proposals for "243 Motorola XTS5000 Model 3 Portable Radios 800 MHz" and "32 Motorola XTL5000 Dash Mount Mobile Radios 800MHz". The Tribunal also found that there was only one reasonable interpretation of the proposal submitted by MTS, that is, that MTS was offering the exact products being requested and that, by submitting its proposal, committed itself to providing those specific products. Therefore, the Tribunal found that PWGSC had violated the *AIT* by not properly applying the evaluation criteria and inappropriately declaring MTS's bid non-compliant.

The Tribunal recommended that PWGSC compensate MTS for the profit that it would have earned had it been awarded the contract.

Judicial Review of Procurement Decisions

Decisions Appealed to and/or Decided by the Federal Court of Appeal

File No.	Complainant Before the Tribunal	Applicant Before the Federal Court of Appeal	File No.
PR-2006-045	Les Systèmes Equinox Inc.	Les Systèmes Equinox Inc.	A—336—07
PR-2007-008	Northrop Grumman Overseas Services Corporation	Attorney General of Canada	A—343—07
		Attorney General of Canada	A—310—07
		Attorney General of Canada	Application allowed (May 22, 2008)*
		Attorney General of Canada	A—398—07
		Lockheed Martin Corporation	A—418—07
PR-2007-010 and PR-2007-012	Northrop Grumman Overseas Services Corporation	Northrop Grumman Overseas Services Corporation	A—424—07
		Northrop Grumman Overseas Services Corporation	
PR-2007-053 and PR-2007-054	Bureau d'études stratégiques et techniques en économique	Bureau d'études stratégiques et techniques en économique	A—455—07
		Bureau d'études stratégiques et techniques en économique	Application allowed (January 23, 2009)
PR-2007-070	Serco Facilities Management Inc.	Defence Construction Canada	A—32—08
		Defence Construction Canada	Application allowed (June 10, 2008)
PR-2007-079	Davis Pontiac Buick GMC (Medicine Hat) Ltd.	Attorney General of Canada	A—102—08
		Attorney General of Canada	Application allowed (November 27, 2008)
PR-2008-024	Davis Pontiac Buick GMC (Medicine Hat) Ltd.	Attorney General of Canada	A—223—08
		Attorney General of Canada	Application allowed (November 27, 2008)
PR-2007-079	Immeubles Yvan Dumais Inc.	Attorney General of Canada	A—364—08
PR-2008-047	3788687 Canada Inc. affiliated with the Westcliff Group of Companies and 39006001 Canada Inc.	3788687 Canada Inc. affiliated with the Westcliff Group of Companies and 39006001 Canada Inc.	A—504—08
			Application withdrawn (December 4, 2008)
	L-3 Communications MAPPS Inc.	L-3 Communications MAPPS Inc.	A—133—09

* Leave to appeal the Federal Court of Canada's decision to the Supreme Court of Canada was granted.

Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not always participate in appeals to the Federal Court of Appeal or the Federal Court, it is unable to confirm that the list contains all appeals or decisions rendered that were before the Federal Court of Appeal and the Federal Court.

Disposition of Procurement Complaints

File No.	Complainant	Status/Decision
PR-2006-045R	Les Systèmes Equinox Inc.	Decision rendered on March 12, 2009 Complaint valid
PR-2007-008R	Northrop Grumman Overseas Services Corporation	Remanded to the Tribunal
PR-2007-010R and PR-2007-012R	Bureau d'études stratégiques et techniques en économique	Remanded to the Tribunal
PR-2007-070	Davis Pontiac Buick GMC (Medicine Hat) Ltd.	Decision rendered on April 16, 2008 Complaint valid
PR-2007-075	NETGEAR, Inc.	Decision rendered on May 15, 2008 Complaint not valid
PR-2007-076	NETGEAR, Inc.	Decision rendered on May 15, 2008 Complaint not valid

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2007-077	NETGEAR, Inc.	Decision rendered on May 15, 2008 Complaint valid in part
PR-2007-079	Immeubles Yvan Dumais Inc.	Decision rendered on June 10, 2008 Complaint valid
PR-2007-080	NETGEAR, Inc.	Decision rendered on April 29, 2008 Complaint not valid
PR-2007-081	NETGEAR, Inc.	Decision rendered on April 29, 2008 Complaint not valid
PR-2007-082	NETGEAR, Inc.	Decision rendered on April 29, 2008 Complaint not valid
PR-2007-083	NETGEAR, Inc.	Decision rendered on April 29, 2008 Complaint not valid
PR-2007-084	Cifelli Systems Corporation	Decision rendered on May 5, 2008 Complaint valid
PR-2007-087	Canadian Bio Services	Complaint dismissed
PR-2007-088	NETGEAR, Inc.	Decision rendered on May 26, 2008 Complaint not valid
PR-2007-090	NETGEAR, Inc.	Complaint dismissed
PR-2007-091	NETGEAR, Inc.	Decision rendered on June 17, 2008 Complaint not valid
PR-2007-092	NETGEAR, Inc.	Decision rendered on June 17, 2008 Complaint not valid
PR-2007-093	NETGEAR, Inc.	Decision rendered on June 17, 2008 Complaint not valid
PR-2007-094	NETGEAR, Inc.	Decision rendered on June 17, 2008 Complaint not valid
PR-2008-001	Antian Professional Services Inc.	Decision rendered on July 2, 2008 Complaint not valid
PR-2008-002	Colley Motorships Ltd.	Decision rendered on August 5, 2008 Complaint valid
PR-2008-003	NETGEAR, Inc.	Decision rendered on July 10, 2008 Complaint not valid
PR-2008-004	NETGEAR, Inc.	Decision rendered on July 10, 2008 Complaint not valid
PR-2008-005	NETGEAR, Inc.	Decision rendered on July 10, 2008 Complaint not valid
PR-2008-006	NETGEAR, Inc.	Decision rendered on July 10, 2008 Complaint not valid
PR-2008-007	Integrated Procurement Technologies, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-008	Bell Mobility	Decision rendered on July 14, 2008 Complaint valid
PR-2008-009	Bell Mobility	Decision rendered on July 14, 2008 Complaint valid
PR-2008-010	Trans-Sol Aviation Service Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-011	144314 Canada Inc./Nexys	Decision rendered on July 24, 2008 Complaint valid
PR-2008-012	Cisco Systems Canada Co.	Complaint dismissed
PR-2008-013	Siva & Associates Inc.	Decision not to conduct an inquiry, late filing
PR-2008-014	NETGEAR, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2008-015	NETGEAR, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-016	Rescue 7 Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-017	Bluedrop Performance Learning Inc.	Decision rendered on September 25, 2008 Complaint valid
PR-2008-018	jmpconsultants	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-019	NETGEAR, Inc.	Decision not to conduct an inquiry, late filing
PR-2008-020	Interis Consulting Inc.	Decision not to conduct an inquiry, late filing
PR-2008-021	ComXel Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-022	Derouard Motor Products Ltd.	Decision not to conduct an inquiry, no jurisdiction
PR-2008-023	Joint Venture of BMT Fleet Technology Limited and NOTRA Inc.	Decision rendered on November 5, 2008 Complaint not valid
PR-2008-024	3788687 Canada Inc. affiliated with the Westcliff Group of Companies and 39006001 Canada Inc.	Decision not to conduct an inquiry, late filing
PR-2008-025	NETGEAR, Inc.	Decision not to conduct an inquiry, premature
PR-2008-026	NETGEAR, Inc.	Decision not to conduct an inquiry, premature
PR-2008-027	NETGEAR, Inc.	Decision not to conduct an inquiry, premature
PR-2008-028	NETGEAR, Inc.	Decision not to conduct an inquiry, premature
PR-2008-029	NETGEAR, Inc.	Decision not to conduct an inquiry, premature
PR-2008-030	POL-E-MAR Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-031	3340848 Canada Inc. - Place Victoria (Multivesco)	Decision not to conduct an inquiry, premature
PR-2008-032	Barer Engineering International	Decision not to conduct an inquiry, late filing
PR-2008-033	MTS Allstream Inc.	Decision rendered on February 3, 2009 Complaint valid
PR-2008-034	3340848 Canada Inc. - Place Victoria (Multivesco)	Decision not to conduct an inquiry, premature
PR-2008-035	Imaging Business Machines LLC	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-036	DDI Group Ltd.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-037	Imperial Parking Canada Corporation	Decision not to conduct an inquiry, no jurisdiction
PR-2008-038	NETGEAR, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-039	NETGEAR, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-040	NETGEAR, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-041	NETGEAR, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-042	NETGEAR, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-043	NETGEAR, Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-044	Valley Associates Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-045	Siva & Associates Inc.	Decision not to conduct an inquiry, no reasonable indication of a breach

Disposition of Procurement Complaints (cont'd)

File No.	Complainant	Status/Decision
PR-2008-046	David Anderson	Decision not to conduct an inquiry, late filing
PR-2008-047	L-3 Communications MAPPS Inc.	Decision not to conduct an inquiry, late filing
PR-2008-048	Almon Equipment Limited	Accepted for inquiry, case in progress
PR-2008-049	ISE Inc.	Accepted for inquiry, case in progress
PR-2008-050	Allseating Corporation	Decision not to conduct an inquiry, no reasonable indication of a breach
PR-2008-051	Doubletex Inc.	Accepted for inquiry, case in progress
PR-2008-052	Global Upholstery Co. Inc.	Accepted for inquiry, case in progress
PR-2008-053	Lavanett Inc.	Complaint withdrawn
PR-2008-054	Jules Gordon Agencies Ltd.	Accepted for inquiry, case in progress
PR-2008-055	Knoll North America Corporation	Decision not to conduct an inquiry, late filing
PR-2008-056	Canadyne Technologies Inc.	Decision not to conduct an inquiry, not a designated contract
PR-2008-057	Vision Media Work Productions	Decision not to conduct an inquiry, not a designated contract
PR-2008-058	Accenture Inc.	Decision not to conduct an inquiry, late filing
PR-2008-059	Mustang Survival Corp.	Decision not to conduct an inquiry, premature
PR-2008-060	Siva & Associates Inc.	Decision not to conduct an inquiry, no jurisdiction
PR-2008-061	Neosoft Technologies Inc.	Accepted for inquiry, case in progress
PR-2008-062	Adélar Soucy (1975) inc.	Accepted for inquiry, case in progress
PR-2008-063	Service d'entretien JDH Inc.	Accepted for inquiry, case in progress

CHAPTER V

APPEALS

Introduction

The Tribunal hears appeals from decisions of the CBSA under the *Customs Act* and *SIMA* or of the Minister of National Revenue under the *Excise Tax Act*. Appeals under the *Customs Act* relate to the origin, tariff classification, value for duty or marking of goods imported into Canada. Appeals under *SIMA* concern the application, to imported goods, of a Tribunal finding or order concerning dumping or subsidizing and the normal value, export price or subsidy of imported goods. Under the *Excise Tax Act*, a person may appeal the Minister of National Revenue's decision about an assessment or determination of federal sales tax or excise tax.

The Tribunal strives to be informal and accessible. However, there are certain procedures and time constraints that are imposed by law and by the *Rules*. For example, the appeal process is set in motion with a notice (or letter) of appeal, in writing, sent to the Secretary of the Tribunal within the time limit specified in the act under which the appeal is made.

Rules

Under the *Rules*, the person launching the appeal (the appellant) normally has 60 days to submit to the Tribunal a document called a "brief". Generally, the brief states under which act the appeal is launched, gives a description of the goods in issue and an indication of the points at issue between the appellant and the Minister of National Revenue or the CBSA (the respondent), and states why the appellant believes that the respondent's decision is incorrect. A copy of the brief must also be given to the respondent.

The respondent must also comply with time and procedural constraints. Normally, within 60 days after having received the appellant's brief, the respondent must file with the Tribunal a brief setting forth the respondent's position and provide a copy to the appellant. The Secretary of the Tribunal then contacts both parties in order to schedule a hearing. Hearings are generally conducted in public. The Tribunal publishes a notice of the hearing in the *Canada Gazette* to allow other interested persons to attend. Depending on the complexity and precedential nature of the matter at issue, appeals will be heard by a panel of one or three members. Persons may intervene in an appeal by specifying the nature of their interest in the appeal and by indicating the reason for intervening and how they may assist the Tribunal in the resolution of the appeal.

Hearings

An individual may present a case before the Tribunal in person, or be represented by counsel. The respondent is generally represented by counsel from the Department of Justice.

Hearing procedures are designed to ensure that the appellant and the respondent are given a full opportunity to make their cases. They also enable the Tribunal to have the best information possible to make a decision. As in a court, the appellant and the respondent can call witnesses, and these witnesses are questioned under oath or affirmation by the opposing parties, as well as by Tribunal members. When all the evidence is gathered, parties may present arguments in support of their respective positions.

The Tribunal, on its own initiative or at the request of the appellant or the respondent, may decide to hold a hearing by way of written submissions. In that case, it publishes a notice of the hearing in the *Canada Gazette* to allow other interested persons to participate.

Usually, within 120 days of the hearing, the Tribunal issues a decision on the matters in dispute, including the reasons for its decision.

If the appellant, the respondent or an intervener disagrees with the Tribunal's decision, the decision can be appealed to the Federal Court of Appeal or the Federal Court.

Extensions of Time

Under section 60.2 of the *Customs Act*, a person may apply to the Tribunal for an extension of time to file a request for a re-determination or a further re-determination with the President of the CBSA. Such an application may be granted by the Tribunal after either the President has refused an application under section 60.1 or 90 days have elapsed after the application was made and the person has not been notified of the President's decision. Under section 67.1, a person may make an application to the Tribunal for an extension of time within which to file a notice of appeal with the Tribunal. During the fiscal year, the Tribunal issued two orders under the *Customs Act*, both of which granted extensions of time. There were no requests under the *Customs Act* that were outstanding at the end of the fiscal year.

Under section 81.32 of the *Excise Tax Act*, a person may apply to the Tribunal for an extension of time to serve a notice of objection with the Minister of National Revenue under section 81.15 or 81.17 or to file a notice of appeal with the Tribunal under section 81.19. During the fiscal year, the Tribunal issued one order under the *Excise Tax Act* granting an extension of time. There were no requests under the *Excise Tax Act* that were outstanding at the end of the fiscal year.

Appeals Received and Heard

During the fiscal year, the Tribunal received 35 appeals. The Tribunal heard 15 appeals, of which 12 related to the *Customs Act*, 1 to the *Excise Tax Act* and 2 to *SIMA*. It issued decisions and/or orders on 20 appeals.

Appeal Decisions and/or Orders Issued in Fiscal Year

Appeal No.	Appellant	Date of Decision	Decision
<i>Customs Act</i>			
AP-2006-029	J. Walter Company Ltd.	May 30, 2008	Appeal allowed
AP-2006-040	Sy Marketing Inc.	June 2, 2008	Appeal dismissed
AP-2006-054	Helly Hansen Leisure Canada Inc.	June 2, 2008	Appeal dismissed
AP-2007-006	Clothes Line Apparel, Division of 2810221 Canada Inc.	July 14, 2008	Appeal dismissed
AP-2007-004	Scott H. Wu	July 29, 2008	Appeal dismissed
AP-2007-005	Viqar Hasan	July 29, 2008	Appeal dismissed
AP-2007-021	Jonathan Bell	August 5, 2008	Appeal allowed
AP-2007-014	Havi Global Solutions (Canada) Limited Partnership	October 10, 2008	Appeal allowed
AP-2007-011	Standard Products Inc.	October 28, 2008	Appeal dismissed
AP-2007-008	Korhani Canada Inc.	November 18, 2008	Appeal allowed
AP-2007-012	DSM Nutritional Products Canada Inc.	December 2, 2008	Appeal allowed
AP-2007-025	Andrew Taylor	December 3, 2008	Appeal dismissed
AP-2007-017	North American Tea & Coffee Inc.	February 11, 2009	Appeal dismissed
AP-2007-009	Sigvaris Corporation	February 23, 2009	Appeal allowed
AP-2008-014	Sean Turner	February 26, 2009	Appeal dismissed
AP-2008-013	Gordon Gee	February 27, 2009	Appeal dismissed
AP-2006-063	Fenwick Automotive Products Limited	March 11, 2009	Appeal dismissed
AP-2007-007	A & G Inc. d.b.a. Alstyle Apparel	March 12, 2009	Appeal allowed
AP-2005-043	Dynamic Furniture Corp.	March 31, 2009	Appeal dismissed
<i>Excise Tax Act</i>			
AP-2007-024	1068827 Ontario Inc. o/a Grace Motors	September 11, 2008	Appeal dismissed

Summary of Selected Decisions

Of the many cases heard by the Tribunal in carrying out its appeal functions, several decisions stand out, either because of the particular nature of the product in issue or because of the legal significance of the case. Brief summaries of a representative sample of such decisions follow, two appeals having been heard under the *Customs Act* and one under the *Excise Tax Act*. These summaries have been prepared for general information purposes only and are of no legal effect.

AP-2006-054—Helly Hansen Leisure Canada Inc. v. President of the Canada Border Services Agency

As part of its appeal process, the Tribunal held a one-day public hearing in Ottawa. There were 2 participants to the appeal, and 3 witnesses appeared before the Tribunal. The official record consisted of 37 exhibits.

This was an appeal under subsection 67(1) of the *Customs Act* from a decision of the CBSA, pursuant to subsection 60(4), concerning a request for review on an advance ruling. The issue in this appeal was whether two styles of women's jackets (the goods in issue), imported by Helly Hansen Leisure Canada Inc. (Helly Hansen), were properly classified under tariff item No. 6210.30.00 of the schedule to the *Customs Tariff* as other garments, made up of fabrics of heading No. 59.03 (textile fabrics, impregnated, coated, covered or laminated with plastics), of the type described in subheading Nos. 6202.11 to 6202.19, as determined by the CBSA, or should have been classified under tariff item No. 3926.20.95 as articles of apparel of plastics combined with uniformly dyed textile fabrics serving merely for reinforcing purposes, as claimed by Helly Hansen.

Based on an examination of the evidence and the terms of the tariff nomenclature, the Tribunal noted that the goods in issue were clearly made up of a material consisting of plastics combined with woven fabrics that were *prima facie* classifiable in either heading No. 39.26 or heading No. 59.03. Pursuant to the applicable rules of interpretation, in order to determine the proper tariff classification of the goods in issue, the Tribunal first had to determine if the textile fabric used in the goods in issue was present merely for reinforcing purposes, i.e. "unfigured" textile fabric.

After a thorough examination of all the evidence, arguments and physical exhibits presented, the Tribunal concluded that the fabric in the goods in issue was "figured", i.e. fabric with a pattern produced by the weave, which, by definition, does not serve merely for reinforcing purposes. The Tribunal also considered the textile fabric used in the goods in issue as a more elaborately worked textile and a special product. Consequently, it was the Tribunal's view that the fabric in the goods in issue should be regarded as having a function beyond that of mere reinforcement. Accordingly, the appeal was dismissed.

AP-2007-007—A & G Inc. d.b.a. Alstyle Apparel v. President of the Canada Border Services Agency

As part of its appeal process, the Tribunal held a one-day public hearing in Vancouver, British Columbia. There were 2 participants to the appeal, and 1 witness appeared before the Tribunal. The official record consisted of 56 exhibits.

This was an appeal under subsection 67(1) of the *Customs Act* from a decision of the CBSA, pursuant to subsection 60(4). The issue in this appeal was whether components of long- and short-sleeved, knitted, 100 percent cotton T-shirts (the goods in issue), produced and cut in the United States, and assembled in Mexico, were entitled to the benefit of the United States Tariff, as asserted by A & G Inc. d.b.a. Alstyle Apparel (A & G), or of the Mexico Tariff, as determined by the CBSA.

In order for the Tribunal to determine if the goods in issue were entitled to a tariff treatment other than the General Tariff, two conditions had to be met: (1) proof of origin of the goods had to be given in accordance with the *Customs Act*; and (2) the goods had to be entitled to that tariff treatment in accordance with the applicable regulations or order. Both parties agreed that the goods in issue were textile and apparel goods that were originating goods. However, they disagreed as to whether the goods were eligible to be marked as goods of the United States or of Mexico.

In order to determine if the goods in issue were entitled to the benefit of the United States Tariff or the Mexico Tariff, the Tribunal examined the rules of origin provided for in the *Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations (NAFTA Marking Regulations)*. The Tribunal found that sections 4 to 6 of the *NAFTA Marking Regulations* did not provide guidance for determining the origin of the goods in issue. With regard to section 7, the Tribunal found that the production

of the goods was by "simple assembly" because: (1) there were five parts to the goods in issue, namely, the body, two sleeves, the collar and the shoulder-seam ribbons; (2) the assembly of the foreign parts (all of U.S. origin) took place in Mexico; (3) the goods in issue were sewn; and (4) the fitting together of five or fewer parts by sewing constituted "simple assembly". The Tribunal determined that the goods in issue met the requirements of paragraph 7(b) of the *NAFTA Marking Regulations*, which directed that the goods in issue originated in the United States, and, therefore, that they were entitled to the United States Tariff. Accordingly, the appeal was allowed.

AP-2007-024—1068827 Ontario Inc. o/a Grace Motors v. Minister of National Revenue

As part of its appeal process, the Tribunal held a one-day public hearing in Ottawa. There were 2 participants to the appeal, and 1 witness appeared before the Tribunal. The official record consisted of 13 exhibits.

This was an appeal under section 81.19 of the *Excise Tax Act* (the *Act*) from a decision of the Minister of National Revenue (the Minister), pursuant to section 81.17. The issue in this appeal was whether the excise tax imposed by the Minister, pursuant to the combined operation of subsections 23(1) and (2), and section 7 of Schedule I, was eligible on used motor vehicles with air conditioning units that were imported into Canada, as submitted by the Minister, or whether the excise tax was limited to importations of new motor vehicles equipped with air conditioning units, as submitted by 1068827 Ontario Inc. o/a Grace Motors (Grace Motors), pursuant to subsection 2(4.1).

The Tribunal agreed with the Minister's reading of the legislation and, in this regard, was unable to find anything in the wording of the specific legislative provisions, or in their context, to support the interpretation of Grace Motors that air conditioning units installed in used vehicles were exempt from liability for excise tax. In this regard, the Tribunal noted that the relevant legislative provisions do not distinguish between new and used vehicles and that Grace Motors did not argue that the exemptions or exclusions applied in this case. Further, the Tribunal concluded that "new motor vehicles" were clearly a subset of "automobiles" generally, and that section 7 of Schedule I made the excise tax payable on air conditioning units installed in automobiles.

Also, the Tribunal found that subsection 2(4.1) of the *Act*, being a provision that deems a certain class of importers of new vehicles to be manufacturers or producers in Canada and the goods that they import to be goods manufactured or produced in Canada, merely deferred the imposition of excise tax from the time of importation to the time of delivery to the purchaser and, read in the context of the *Act*, did not operate to limit the application of the tax solely to air conditioning units installed in new vehicles. Accordingly, the appeal was dismissed.

Appeal Cases Before the Federal Court of Appeal or the Federal Court

Appeal No.	Appellant Before the Tribunal	Appellant Before the Court	File No.
AP-2002-007	King West Communications Inc.	King West Communications Inc.	T—1335—03
AP-2002-008	The Russo Group Inc.	The Russo Group Inc.	T—1332—03
AP-2002-034 to AP-2002-037	Pierre Roy et Associés Inc. for Lithochrome (1974) Inc. (in Bankruptcy), Le Groupe Lithochrome Inc. (in Bankruptcy), Filmographie P.F. Inc. (in Bankruptcy) and Opticouleur Inc. (in Bankruptcy)	Pierre Roy et Associés Inc. for Lithochrome (1974) Inc. (in Bankruptcy), Le Groupe Lithochrome Inc. (in Bankruptcy), Filmographie P.F. Inc. (in Bankruptcy) and Opticouleur Inc. (in Bankruptcy)	T—1134—05
AP-2004-018R	Gladu Tools Inc.	Gladu Tools Inc.	A—195—08
AP-2005-027	Les Huiles Thuot et Beauchemin Inc.	Les Huiles Thuot et Beauchemin Inc.	T—618—06
AP-2005-035	Panasonic Canada Inc.	Panasonic Canada Inc.	A—571—07 Appeal dismissed (February 5, 2009)
AP-2006-018	Pelco Worldwide Headquarters	Pelco Worldwide Headquarters	A—572—07
AP-2006-036	Location Robert Ltée	Location Robert Ltée	T—878—08
AP-2006-037	Transport Robert (1973) Ltée	Transport Robert (1973) Ltée	T—879—08
AP-2006-041	Canadian Tire Corporation Limited	Canadian Tire Corporation Limited	A—570—07 Appeal dismissed (March 10, 2009)
AP-2006-053	Spectra/Premium Industries Inc.	Spectra/Premium Industries Inc.	A—171—08 Appeal dismissed (March 11, 2009)
AP-2006-054	Helly Hansen Leisure Canada Inc.	Helly Hansen Leisure Canada Inc.	A—428—08
AP-2007-006	Clothes Line Apparel, Division of 2810221 Canada Inc.	Clothes Line Apparel, Division of 2810221 Canada Inc.	A—516—08
AP-2007-011	Standard Products Inc.	Standard Products Inc.	A—619—08
AP-2007-024	1068827 Ontario Inc. o/a Grace Motors	1068827 Ontario Inc. o/a Grace Motors	A—621—08

Note: The Tribunal has made reasonable efforts to ensure that the information listed is complete. However, since the Tribunal does not always participate in appeals to the Federal Court of Appeal or the Federal Court, it is unable to confirm that the list contains all appeals or decisions rendered that were before the Federal Court of Appeal and the Federal Court.

CHAPTER VI

STANDING TEXTILE REFERENCE

Pursuant to a reference from the Minister of Finance dated July 6, 1994, as last amended on October 27, 2005, the Tribunal is directed to investigate requests from domestic producers for tariff relief on imported textile inputs for use in their manufacturing operations and, in respect of those requests, to make recommendations to the Minister of Finance that would maximize net economic gains to Canada.

The terms of reference call for the Tribunal to report annually to the Minister of Finance on the investigation process. This chapter reports on the Tribunal's activities under the textile reference.

Scope of the Reference

A domestic producer may apply for tariff relief on an imported textile input used, or proposed to be used, in its manufacturing operations. The textile inputs on which tariff relief may be requested are the fibres, yarns and fabrics of Chapters 51, 52, 53, 54, 55, 56, 58, 59 and 60 of the schedule to the *Customs Tariff*; certain monofilaments or strips and textile and plastic combinations of Chapter 39; rubber thread and textile and rubber combinations of Chapter 40; and products of textile glass fibres of Chapter 70. The following yarns are not included in the textile reference:

Knitting yarns, solely of cotton or solely of cotton and polyester staple fibres, measuring more than 190 decitex, of Chapter 52 or subheading No. 5509.53 other than those used to make sweaters, having a horizontal self-starting finished edge and the outer surfaces of which are constructed essentially with 9 or fewer stitches per 2 centimetres (12 or fewer stitches per inch) measured in the horizontal direction.

Types of Relief Available

The tariff relief that may be recommended by the Tribunal to the Minister of Finance ranges from the removal or reduction of tariffs on one or several partial or complete tariff lines, textile- and/or end-use-specific tariff provisions. Except for exceptional circumstances, recommendations are not to include a gender-specific "end use". The recommendation could be for tariff relief for either a specific or an indeterminate period of time.

Process

Domestic producers seeking tariff relief must file a request with the Tribunal. Along with their request, producers must file either samples of the textile input for which tariff relief is being sought or a National Customs Ruling from the CBSA covering the input. If the Tribunal determines that the request is properly documented, it will conduct an investigation to determine if it should recommend tariff relief.

Filing and Notification of a Request

Upon receipt of a request for tariff relief, and before commencement of an investigation, the Tribunal issues a brief electronic notice on its Web site announcing the request. The minimum period of time for the notification of a request before the start of an investigation is 30 days.

This notification is designed to increase transparency, identify potential deficiencies in the request, avoid unnecessary investigations, provide an opportunity for the domestic textile industry to contact the requester and agree on a reasonable domestic source of supply, inform other users of identical or substitutable textile inputs, prepare the domestic industry to respond to subsequent investigation questionnaires and give associations advance time for planning and consultation with their members.

Investigations

When the Tribunal is satisfied that a request is properly documented, it commences an investigation. A notice of commencement of investigation is sent to the requester, all known interested parties and any appropriate government department or agency, such as the Department of Foreign Affairs and International Trade, the Department of Industry, the Department of Finance and the CBSA. The notice is also published in the *Canada Gazette*.

Interested parties include all persons whose rights or pecuniary interests may be affected by the Tribunal's recommendations. Interested parties are given notice of the request and can participate in the investigation.

To prepare a staff investigation report, the Tribunal's staff gathers information through such means as questionnaires and plant visits. Information is obtained from the requester and interested parties to determine whether the tariff relief sought will maximize net economic gains for Canada.

In most cases, a public hearing is not required and the Tribunal will dispose of the matter on the basis of written submissions, including the request, the staff investigation report and all submissions and evidence filed with the Tribunal. In cases where the written record is not sufficient to dispose of the matter, a public hearing is held.

The procedures for the conduct of the Tribunal's investigation envisage the full participation of the requester and all interested parties. A party, other than the requester, may file submissions, including evidence, in response to the properly documented request, the staff investigation report and any information provided by a government department or agency. The requester may subsequently file submissions with the Tribunal in response to the staff investigation report and any information provided by a government department, agency or other party.

Recommendations to the Minister of Finance

The Tribunal will normally issue its recommendations, with reasons, to the Minister of Finance within 100 days from the date of commencement of the investigation. In exceptional cases, where the Tribunal determines that critical circumstances exist, it will issue its recommendations within an earlier specified time frame.

Request for Review

Where the Minister of Finance has made an order for tariff relief pursuant to a recommendation of the Tribunal, certain domestic producers may ask the Tribunal to commence an investigation for the purpose of recommending the renewal, amendment or termination of the order. A request for the amendment or termination of the order should specify what changed circumstances justify the request.

Review on Expiry

Where the Minister of Finance has made an order for tariff relief subject to a scheduled expiry date, the Tribunal will, before the expiry date, issue a formal notice that the tariff relief provided by the order will expire unless the Tribunal issues a recommendation that tariff relief should be continued and the Minister of Finance implements the recommendation. The notice invites interested parties to file submissions for or against the continuation of tariff relief.

Summary of Activities

New Requests

	2007-2008	2008-2009
Requests		
Received	7	3
Withdrawn	1	1
Awaiting initiation of investigation	2	1
Investigations completed during the fiscal year	4	3
Investigations in progress at end of fiscal year	1	1
Recommendations to Minister of Finance		
Tariff relief	4	3
No tariff relief	0	0
Reports to Minister of Finance	4	3
Cumulative totals (since 1994)		
Requests received	184	187
Recommendations to Minister of Finance		
Tariff relief	110	113
No tariff relief	49	49

During the fiscal year, the Tribunal received three requests for tariff relief and initiated three investigations, two of which related to requests received in the previous fiscal year. One request was withdrawn. The Tribunal issued three reports to the Minister of Finance, one of which dealt with an investigation that was initiated in the previous fiscal year. One investigation was in progress at the end of the fiscal year, and one request was under consideration.

Disposition of Requests

Request No.	Requester	Textile Input	Date of Disposition	Status/Recommendations
TR-2007-005	Canadian Association of Technical Outerwear Manufacturers	Fabric	October 28, 2008	Indeterminate tariff relief
TR-2007-006	Peerless Clothing Inc.	Fabric	August 13, 2008	Indeterminate tariff relief
TR-2007-007	Le Château	Fabric	December 2, 2008	Indeterminate tariff relief
TR-2008-001	Reliable Hosiery Ltd.	Yarn	July 8, 2008	Request withdrawn
TR-2008-002	St. Geneve	Fabric		Request under consideration
TR-2008-003	Caskets Vic Royal, a Division of Victoriaville Funeral Supplies Inc.	Fabric		Investigation in progress

Effects

The implementation of Tribunal recommendations is made by adding new tariff items to the *Customs Tariff* or, occasionally, by issuing specific customs duty remission orders. The table at the end of this chapter provides a list of the recommendations implemented by the Government as of December 31, 2008.

It should be noted that some of the tariff items in the list differ from the tariff items as they were originally enacted to give effect to the Tribunal's recommendations under the standing textile reference. First, on November 21, 2005, as part of its implementation of the recommendations made by the Tribunal in Reference No. MN-2004-002, the Government put in place a new tariff structure that created a number of duty-free tariff items. In instances where these broader duty-free tariff items covered products that were already provided duty-free treatment by individual tariff items implemented under the standing textile reference, the latter individual tariff items were deleted from the *Customs Tariff*. Second, on December 13, 2006, at the same time as it implemented the Tribunal's recommendations in Reference No. MN-2005-001, the Government further modified the tariff structure to eliminate additional tariff items and to amend the existing wording to remove additional gender-specific or product-specific end-use requirements. Third, amendments to the *Customs Tariff* came into effect on January 1, 2007, to implement updates to the *Harmonized Commodity Description and Coding System* by the World Customs Organization.

For the period from January 1 to December 31, 2008, the Tribunal estimates that the tariff items listed in the table at the end of this chapter covered imports worth about \$198 million and provided tariff relief worth about \$20.1 million. For the comparable period in 2007, these amounts were about \$248 million and about \$25.4 million respectively. The decrease in the value of tariff relief in 2008 is reflective of the smaller value of imports.

As stated earlier, textile inputs on which tariff relief may be requested are limited to 12 chapters of the *Customs Tariff*. From January 1 to December 31, 2008, tariff relief principally affected textile inputs falling in three chapters: Chapter 51 ("Wool, fine or coarse animal hair; horsehair yarn and woven fabric"); Chapter 52 ("Cotton") and Chapter 54 ("Man-made filaments"). The percentage of total imports accounted for by the imports benefiting from tariff relief, falling in these 12 chapters, ranged from 0 to 48.1 percent. Overall, approximately 0.8 percent of total imports falling in the 12 chapters benefit from tariff relief. The following table provides, for calendar year 2008, a distribution of the imports benefiting from tariff relief, by *Customs Tariff* chapter.

Percentage of Imports Benefiting from Tariff Relief by Customs Tariff Chapter

Chapter	Description	Percentage
39	Plastic and articles thereof	0.0
40	Rubber and articles thereof	0.0
51	Wool, fine or coarse animal hair	48.1
52	Cotton	12.4
53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn	5.2
54	Man-made filaments	11.3
55	Man-made staple fibres	5.6
56	Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof	0.8
58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery	1.5
59	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use	3.9
60	Knitted or crocheted fabrics	1.0
70	Glass and glassware	0.1
Weighted average		0.8

Source: Statistics Canada

Summary of Recommendations

A summary of the Tribunal's recommendations issued during the fiscal year follows.

TR-2007-005—Canadian Association of Technical Outerwear Manufacturers

In its investigation, the Tribunal sent 17 questionnaires to domestic producers and users and/or importers of the subject textile input. Of the 17 questionnaires sent, 9 responses were received. The Tribunal held a file hearing, and there were 6 participants to the investigation. The official record consisted of 183 exhibits, totalling 1,875 pages of documents.

The Tribunal recommended to the Minister of Finance that tariff relief be granted, for an indeterminate period of time, on importations from all countries of:

- three-layer fabric consisting of a middle layer of cellular polytetrafluoroethylene, having a woven nylon fabric with or without elastomeric yarns on one side and a knit pile fabric of polyester on the other side, of tariff item No. 6001.92.90, for use in the manufacture of water-resistant or waterproof, breathable recreational outerwear, including alpine hiking and climbing, skiing or mountaineering apparel;
- three-layer fabric consisting of a middle layer of cellular polytetrafluoroethylene, having a woven polyester or nylon fabric with or without elastomeric yarns on one side and a woven or knit fabric of polyester or nylon on the other side, of tariff item No. 5903.90.29, for use in the manufacture of water-resistant or waterproof, breathable recreational outerwear, including alpine hiking and climbing, skiing or mountaineering apparel;

- four-layer fabric consisting of a first layer of woven polyester or nylon fabric with or without elastomeric yarns, a second layer of cellular polytetrafluoroethylene, a third layer of non-cellular polyurethane and a fourth layer of woven or knit fabric of polyester or nylon, of tariff item No. 5903.90.29, for use in the manufacture of water-resistant or waterproof, breathable recreational outerwear, including alpine hiking and climbing, skiing or mountaineering apparel;
- four-layer fabric consisting of a first layer of woven polyester or nylon fabric with or without elastomeric yarns, a second layer of cellular polytetrafluoroethylene, a third layer of non-cellular polyurethane and a fourth layer of woven or knit fabric of polyester or nylon, of tariff item No. 5903.20.29, for use in the manufacture of water-resistant or waterproof, breathable recreational outerwear, including alpine hiking and climbing, skiing or mountaineering apparel; and
- four-layer fabric consisting of a first layer of woven nylon fabric with or without elastomeric yarns, a second layer of cellular polytetrafluoroethylene, a third layer of non-cellular polyurethane and a fourth layer of knit pile fabric of polyester, of tariff item No. 6001.92.90, for use in the manufacture of water-resistant or waterproof, breathable recreational outerwear, including alpine hiking and climbing, skiing or mountaineering apparel.

The Canadian Association of Technical Outerwear Manufacturers (CATOM) requested the tariff relief. CATOM members included Arc'teryx Equipment Inc. and Mountain Equipment Co-op. CATOM claimed that there was no domestic production of fabrics identical to or substitutable for the subject fabrics. Three fabric producers, Bennett Fleet Inc., Consoltex Inc. and Stedfast Inc. initially opposed the request. Subsequently, they reached an agreement with CATOM and withdrew their opposition to the request.

In response to a revised notice of product description circulated by the Tribunal following the agreement between CATOM and the three domestic producers, Doubletex, a textile convertor, opposed the request and requested to participate in the investigation. The Tribunal rejected the request stating that Doubletex had been aware of the investigation and had had ample opportunity to file a submission.

Also in response to the revised notice of product description, Oceanic Sportswear (1995) Ltd. (Oceanic) requested to join a request for tariff relief on three-layer fabrics having a middle layer of polyurethane with the current investigation. The Tribunal rejected the request stating that Oceanic had failed to explain how the revised fabric descriptions had changed its interest in the investigation.

The Tribunal concluded that tariff relief would result in yearly benefits to users of these fabrics in excess of \$350,000.

TR-2007-006—Peerless Clothing Inc.

In its investigation, the Tribunal sent 14 questionnaires to domestic producers and users and/or importers of the subject textile input. Of the 14 questionnaires sent, no responses were received. The Tribunal held a file hearing, and there were 2 participants to the investigation. The official record consisted of 20 exhibits, totalling 100 pages of documents.

The Tribunal recommended to the Minister of Finance that tariff relief be granted, for an indeterminate period of time, on importations from all countries of woven fabric, plain weave, dyed, of untwisted textured polyester filament yarns in the weft and untwisted non-textured polyester filament yarns in the warp, of a weight not exceeding 55 g/m², of tariff item No. 5407.69.90, for use as knee lining in the manufacture of trousers.

Peerless Clothing Inc. (Peerless) requested the tariff relief. No domestic fabric producers contested Peerless's claim that there was no domestic production of identical or substitutable fabrics.

The Tribunal concluded that tariff relief would result in yearly benefits to users of these fabrics in excess of \$45,000.

TR-2007-007—Le Château Inc.

In its investigation, the Tribunal sent 9 questionnaires to domestic producers and users and/or importers of the subject textile input. Of the 9 questionnaires sent, no responses were received. The Tribunal held a file hearing, and there was 1 participant to the investigation. The official record consisted of 18 exhibits, totalling 236 pages of documents.

The Tribunal recommended to the Minister of Finance that tariff relief be granted for an indeterminate period of time, on importations from all countries of woven fabric, satin weave, dyed, of yarns of non-textured polyester filaments in the warp and of textured polyester filaments and elastomeric yarn in the weft, of a weight not exceeding 132 g/m², of tariff item No. 5407.69.90, for use in the manufacture of dresses, skirts, vests, blouses, tops and scarves.

Le Château Inc. (Le Château) requested the tariff relief. No domestic fabric producers contested Le Château's claim that there was no domestic production of identical or substitutable fabrics.

The Tribunal concluded that tariff relief would result in yearly benefits to users of these fabrics in excess of \$45,000.

Tariff Relief Recommendations in Place

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2008
TR-94-001		Canatex Industries (Division of Richelieu Knitting Inc.)	5402.45.00 ¹
TR-94-004		Woods Canada Limited	5208.52.30
TR-94-010		Palliser Furniture Ltd.	5806.20.10
TR-94-012		Peerless Clothing Inc.	5309.29.30 ¹
TR-94-013 and TR-94-016		MWG Apparel Corp.	5208.42.91 ¹ 5208.43.70 ¹ 5208.49.91 ¹ 5513.31.20 ¹ 5513.39.11 ¹
TR-94-017 and TR-94-018		Elite Counter & Supplies	9943.00.00

Tariff Relief Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2008
TR-95-003		Landes Canada Inc.	5603.11.20 5603.12.20 5603.13.20 5603.14.20 5603.91.20 5603.92.20 5603.93.20 5603.94.20
TR-95-004		Lingerie Bright Sleepwear (1991) Inc.	5208.12.20 ² 5208.52.20 ²
TR-95-005		Lingerie Bright Sleepwear (1991) Inc.	5513.11.91 ¹ 5513.41.10 ²
TR-95-009		Peerless Clothing Inc.	5408.21.40 ¹ 5408.22.23 ¹ 5408.22.91 ¹
TR-95-010 and TR-95-034		Freed & Freed International Ltd. and Fen-nelli Fashions Inc.	5111.19.10 5111.19.20
TR-95-011		Louben Sportswear Inc.	5408.31.40 ¹ 5408.32.60 ¹
TR-95-012		Perfect Dyeing Canada Inc.	5509.32.10
TR-95-013A		Doubletex	5208.11.00 ¹ 5208.12.40 5208.13.20 5208.19.30 5208.21.40 5208.22.20 5208.23.10 5208.29.20 5209.11.30 5209.12.20 5209.19.30 5209.21.20 5209.22.10 5209.29.20
TR-95-036		Canadian Mill Supply Co. Ltd.	5208.21.20
TR-95-037		Paris Star Knitting Mills Inc.	5408.24.12 ¹ 5408.24.92 ¹ 5408.34.30 ¹ 5516.14.20 ¹ 5516.24.10 ²
TR-95-051		Camp Mate Limited	5407.41.10 5407.42.10 5407.42.20 5903.20.22
TR-95-053 and TR-95-059		Majestic Industries (Canada) Ltd. and Caulfeild Apparel Group Ltd.	5802.11.20 ¹ 5802.19.40 ¹
TR-95-056		Sealy Canada Ltd.	3921.19.20 5407.69.30 5407.73.10 5407.94.10 5516.23.10 5903.90.25 6005.34.20

Tariff Relief Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2008
TR-95-057 and TR-95-058	Doubletex		5407.51.10 5407.61.96 5407.69.10 5515.11.10 5516.21.10 5516.91.10
TR-95-060	Triple M Fiberglass Mfg. Ltd.		7019.59.10
TR-95-061	Camp Mate Limited		6005.31.20 6005.32.20 6005.33.20 6005.34.30
TR-95-064 and TR-95-065	Lady Americana Sleep Products Inc. and el ran Furniture Ltd.		6005.34.60 6005.44.20
TR-96-003	Venture III Industries Inc.		5407.61.95 ²
TR-96-004	Acton International Inc.		5906.99.21
TR-97-001	Jones Apparel Group Canada Inc.		5407.91.10 ² 5407.92.20 ² 5407.93.10 ² 5408.21.40 ¹ 5408.22.91 ¹ 5408.23.91 ¹ 5408.31.40 ¹ 5408.32.60 ¹ 5408.33.30 ¹
TR-97-002 and TR-97-003	Universal Manufacturing Inc.		5208.43.70 ¹ 5513.41.20 ²
TR-97-006	Peerless Clothing Inc.		5407.51.30 ² 5903.90.22 ² 5903.90.23 ² 5903.90.24 ² 6005.31.30 ² 6005.31.40 ² 6005.32.30 ² 6005.32.40 ² 6005.33.91 ¹ 6005.34.40 ² 6005.34.50 ²
TR-97-004, TR-97-007, TR-97-008 and TR-97-010	Blue Bird Dress of Toronto Ltd.		5407.51.20 5407.52.20 5407.61.94 5407.69.20
TR-97-011	Australian Outback Collection (Canada) Ltd.		5209.31.20 5907.00.16
TR-97-012	Ballin Inc.		5407.93.30 5516.23.91 ²
TR-97-014	Lenrod Industries Ltd.		5603.93.40
TR-97-015, TR-97-016 and TR-97-020	Helly Hansen Canada Ltd.		5903.20.24
TR-98-001	Cambridge Industries		5608.19.20
TR-98-002	Distex Inc.		6006.23.10
TR-98-004, TR-98-005 and TR-98-006	Ladcal Investments Ltd., O/A Pintar Manufacturing Nour Trading House and T.S. Simms and Company Limited		5806.10.20
TR-98-007	Caulfeild Apparel Group Ltd.		5208.43.70 ¹

Tariff Relief Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2008
TR-98-016		Peerless Clothing Inc.	5407.93.20 ²
TR-98-017		Jones Apparel Group Canada Inc.	5408.32.60 ¹ 5408.33.30 ¹ 5408.34.30 ¹
TR-98-019		Tribal Sportswear Inc.	5209.12.10 ¹ 5209.22.40 ¹ 5209.32.10 ²
TR-99-002		Albany International Canada Inc.	5404.19.00 ¹
TR-99-003/003A		Western Glove Works Ltd.	5209.31.30 5209.32.30
TR-99-004		Peerless Clothing Inc.	5112.11.50 ¹ 5112.19.20 ² 5112.19.30 ²
TR-99-005		Distex Inc.	6006.22.20
TR-99-006		Coloridé Inc.	5402.45.00 ³
TR-99-008		JMJ Fashions Inc.	5407.61.20 ²
TR-2000-001		Peerless Clothing Inc.	5408.22.23 ¹
TR-2000-002		Majestic Industries (Canada) Ltd.	5802.19.40 ¹
TR-2000-003		Tantalum Mining Corporation of Canada Limited	5911.40.10
TR-2000-004		Ballin Inc.	5516.23.91 ² 5516.93.00 ²
TR-2000-005		Peerless Clothing Inc.	5112.11.50 ¹ 5112.19.40 ²
TR-2000-006		Doubletex	5512.11.30 5513.11.20 5513.12.10 5513.13.10 5514.11.10 5514.12.10 5514.19.10 ¹ 9997.00.00
TR-2000-007 and TR-2000-008		Scapa Tapes North America Ltd.	5208.21.50 5208.31.20
TR-2001-001		Gibson Textile Dyers	5512.29.10
TR-2001-002		Beco Industries Ltd.	5513.41.30
TR-2002-001		Richlu Manufacturing Ltd.	5209.39.10 ²
TR-2002-002		Peerless Clothing Inc.	5602.10.20 ²
TR-2002-006		C.S. Brooks Inc.	5407.91.20 5513.11.30
TR-2002-007		Peerless Clothing Inc.	5408.22.91 ¹ 5408.23.91 ¹
TR-2002-008		Tribal Sportswear Inc.	5515.11.20 ²
TR-2002-010/010A		Ballin Inc.	5516.22.10 5516.23.91 ²
TR-2003-001		Tribal Sportswear Inc.	5208.39.30 ¹ 5209.32.40 ² 5209.39.20 ² 5209.52.10 ² 5209.59.10 ²

Tariff Relief Recommendations in Place (cont'd)

Request No./ Review No.	Expiry No. (Original Request No.)	Requester/Textile Input	Tariff Item No. as of December 31, 2008
TR-2003-002		Sunshine Mills Inc.	5205.24.30 5205.26.00 ¹ 5205.27.00 ¹
TR-2003-003		Peerless Clothing Inc.	5603.92.91 ²
TR-2003-004		Peerless Clothing Inc.	5903.90.23 ²
TR-2004-001		Tricots Liesse (1983) Inc	5402.31.10
TR-2006-001		Peerless Clothing Inc.	5407.61.97
TR-2006-002		Tricots Liesse (1983) Inc.	5510.11.10 5510.30.10
TR-2007-001		Peerless Clothing Inc.	5603.93.70
TR-2007-002		Korhani Manufacturing	5402.34.10
TR-2007-003		Peerless Clothing Inc.	5407.52.30
TA-98-001	TE-97-004 (TR-95-009)	Dyed woven fabrics of rayon and polyester	5408.31.40 ¹ 5408.32.60 ¹
TA-98-002	TE-97-003 (TR-94-009)	Vinex FR-9B fabric	5512.99.10
TA-98-003	TE-98-001 (TR-95-014)	Woven cut warp pile fabrics	5801.35.10
TA-2003-001	TE-2003-001 TE-2001-001 TE-98-002 (TR-94-002 and TR-94-002A)	Ring-spun yarns	5205.14.20 5205.15.00 ¹ 5205.24.20 5205.26.00 ¹ 5205.27.00 ¹ 5205.28.00 ¹ 5205.35.00 ¹ 5205.46.00 ¹ 5205.47.00 ¹ 5205.48.00 ¹ 5206.14.00 ¹ 5206.15.00 ¹ 5206.24.00 ² 5206.25.00 ¹ 5509.53.10 5509.53.20 ² 5509.53.30 ² 5509.53.40 ²

1. Tariff item encompasses goods not covered in the original request as a result of the November 21, 2005, Order in Council.

2. Tariff item encompasses goods not covered in the original request as a result of the December 13, 2006, Order in Council.

3. Tariff item encompasses goods not covered in the original request as a result of the June 23, 2006, Order in Council, which came into effect on January 1, 2007.

